

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"C" BENCH, CHENNAI

श्री बी.आर. बास्करन, लेखा सदस्य एवं श्री विकास अवस्थी, न्यायिक सदस्य केसमक्ष

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND
SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 2671/Mds/2014

निर्धारण वर्ष /Assessment Year : 2006-07

M/s TTG Industries Ltd.,
No.9, Vanagaram Road,
Ayanambakkam,
Chennai - 600 095.

v. The Assistant Commissioner of
Income Tax,
Company Circle III,
Chennai - 600 034.

PAN : AAAC 6106 F

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri R. Vijayaraghavan, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri A.V. Sreekanth, JCIT

सुनवाई की तारीख/Date of Hearing : 05.02.2015

घोषणा की तारीख/Date of Pronouncement : 05.02.2015

आदेश / O R D E R

PER B.R. BASKARAN, ACCOUNTANT MEMBER:

The assessee has filed this appeal challenging the order dated 30.07.2014, passed by the Ld. Commissioner of Income Tax (Appeals)-III, Chennai and it relates to assessment year 2006-07. The assessee is aggrieved by the decision of Ld. CIT(Appeals) in confirming the addition made out of purchases expenditure to the extent of ₹ 1.81 Crores.

2. We heard the parties and perused the record. We notice that the assessment was completed by the Assessing Officer to the best of his judgment under Section 144 of the Income-tax Act, 1961 (in short 'the Act') wherein he disallowed the purchase expenditure claimed to the tune of ₹ 10.65 Crores on the reasoning that the assessee has failed to prove the same.

3. In the appellate proceedings, the assessee furnished certain details and hence the Ld. CIT(Appeals) called for a remand report from the Assessing Officer. In the remand report, the A.O. reported that the assessee has furnished evidence for an amount of ₹ 8.84 Crores and no evidence was furnished for the balance amount of ₹ 1.81 Crores. Accordingly, the Ld. CIT(Appeals) granted relief to the tune of ₹ 8.84 Crores and confirmed the balance addition of ₹ 1.81 Crores.

4. The Ld. counsel submitted that the assessee had incurred the expenditure purely for business purposes. The assessee's net worth has become negative and hence a reference was made to BIFR. Consequent thereto, banks also classified company account as non-performing asset and they have stopped the operations. The Ld. counsel further submitted that the assessee had made the purchases in connection with contracts for its customers. As the

company has become sick and since almost all employees left the organization, it was difficult for the assessee to trace all documents/papers and produce the same before the tax authorities. Accordingly, the Ld. counsel submitted that the disallowance made by the Assessing Officer be deleted in view of the peculiar facts prevailing in the instant case.

5. On the contrary, the Ld. D.R. submitted that the responsibility to prove the expenditure lies upon the assessee. Hence, he prayed that the order of the Ld. CIT(Appeals) be confirmed.

6. Having heard the rival submissions, we are of the view that one should appreciate the difficulty experienced by the assessee in view of it becoming sick. We notice from the assessment order that the assessee has claimed ₹ 78.31 Crores as purchase expenses of which, the Assessing Officer has made addition to the tune of ₹ 10.65 Crores and the Ld. CIT(Appeals) has sustained only to the tune of ₹ 1.81 Crores, meaning thereby the assessee has furnished evidence towards 90% of the expenditure claim made by it. Considering the difficulty faced by the assessee, we are of the view that it is not justifiable to disallow the entire balance amount of ₹ 1.81 Crores. Hence, to put this matter to rest, we are of the view that the addition may be sustained to the extent of 25% of ₹ 1.81

Crores. Accordingly, we modify the order of the Ld. CIT(Appeals) and direct the Assessing Officer to sustain the addition to the extent of 25% of 1.81 Crores and compute the income.

7. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court after conclusion of hearing on the 5th day of February, 2015 at Chennai.

Sd/- (विकास अवस्थी) (Vikas Awasthy) न्यायिक सदस्य/Judicial Member	sd/- (बी.आर. बास्करन) (B.R. Baskaran) लेखा सदस्य/Accountant Member
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चेन्नई/Chennai,
दिनांक/Dated, the 5th February, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-III, Chennai-34
4. आयकर आयुक्त/CIT, Chennai-III, Chennai-34.
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.