

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.7/Mds/2016

निर्धारण वर्ष / Assessment Year : 2009-10

The Deputy Commissioner of
Income Tax,
Corporate Circle – 2,
Madurai.

(अपीलार्थी/Appellant)

v. M/s Tamil Nadu Jaibharath Mills Ltd.,
No.212, Ramasamy Nagar,
Aruppukottai – 626 159.

PAN : AABCT 0158 J

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Sh. Ajit Kumar Varma, CIT

प्रत्यर्थी की ओर से/Respondent by : None

आयकर अपील सं./ITA No. 8/Mds/2016

निर्धारण वर्ष / Assessment Year : 2009-10

The Deputy Commissioner of
Income Tax,
Corporate Circle – 2,
Madurai.

(अपीलार्थी/Appellant)

v. M/s Shri Govindaraja Mills (P) Ltd.,
R.S. No.1, Sayalkudi Road,
Savvaspuram, Aruppukottai.

PAN : AAHCS 7005 D

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Sh. P. Radhakrishnan, JCIT

प्रत्यर्थी की ओर से/Respondent by : None

सुनवाई की तारीख/Date of Hearing : 06.04.2016

घोषणा की तारीख/Date of Pronouncement : 13.04.2016

आदेश / O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

Both the appeals filed by the Revenue in respect of two independent assesseees are directed against the orders of the Commissioner of Income Tax (Appeals) – 1, Madurai, dated 09.10.2015 and 13.10.2015 respectively, pertaining to assessment year 2009-10. Since common issue arises for consideration in both the appeals, we heard both the appeals together and disposing of the same by this common order.

2. No one appeared for the assesseees inspite of issue of notice. The assessee in I.T.A. No.7/Mds/2016, has filed written submission and requested to dispose the appeal on merit. However, no one appeared for the assessee in I.T.A. No. 8/Mds/2016 nor any written submission was filed. Therefore, we heard the Ld. D.R. and disposing the appeals on merit.

3. Sh. Ajit Kumar Varma, the Ld. D.R. submitted that the assessee is engaged in the business of manufacturing and selling of cotton yarn. During the course of assessment proceeding, the Assessing Officer found that there is huge variation in the

expenditure claimed for electricity and fuel by the assessee, while comparing the same with that of other 14 textile mills. In view of the variation, the Assessing Officer found that the average percentage of expenditure of power and fuel with reference to gross turnover of other 14 mills is 15.60. In the case of Tamil Nadu Jaibharath Mills Ltd., it was 19.3. In the case of Tamil Nadu Jaibharath Mills Ltd., the average cost of diesel for production of one unit electricity is ₹10.12, whereas the assessee is claiming ₹10.33. Since in normal manufacturing conditions, the average power and fuel expenditure cannot vary, the Assessing Officer found that the claim of power and fuel expenditure was considerably excess. Accordingly, the difference between the excess expenditure claimed by the assessee was disallowed.

4. We have heard Sh. P. Radhakrishnan, the Ld. Departmental Representative also. In I.T.A. No.8/Mds/2016, the Ld. D.R. submitted that he places his reliance on the grounds of appeal.

5. We have considered the submissions of both the Ld. Departmental Representatives and perused the relevant material available on record. We have carefully gone through the written submission filed by the assessee in I.T.A. No.7/Mds/2016. This

Tribunal is of the considered opinion that the actual expenditure has to be considered while computing the total income. When the assesseees are maintaining books of account, there is no ground for estimation of expenditure. The books of account maintained by the assesseees were not rejected and the Assessing Officer has not raised any doubt. The Assessing Officer simply comparing the expenditure incurred by the assesseees in fuel and power with that of the 14 other mills, found that the claim of the assesseees for manufacturing / production of one unit of electricity at ₹10.33 is highly excessive. Manufacturing expenditure and consumption of fuel or power would depend upon various factors depending upon the machinery used and maintenance of machinery in a proper condition, etc. If the machine / parts were not working, it needs to be replaced or maintained in a condition that it is used for production. Therefore, estimation of expenditure for production of electricity per unit while comparing with other 14 mills, is not justified. This Tribunal is of the considered opinion that when the assesseees are maintaining the books of account, in the absence of any other material, the Assessing Officer cannot reject the same by comparing the expenditure with other 14 mills. Therefore, this

Tribunal do not find any reason to interfere with the orders of the lower authority and accordingly the same are confirmed.

6. Now coming to the excess purchase price paid for ginned cotton, the Ld. D.R. submitted that the Assessing Officer has taken 55 numbers on random basis for examination. The price paid by the assesseees was compared with average monthly price announced by the CAI. Out of 55 purchases made, for 19 purchases, the assesseees have purchased at a price less than the average monthly price of CAI. For remaining 36 purchases, the price paid by the assesseees was excess of price announced by CAI. Therefore, the excess price paid by the assesseees for 36 purchases was taken as income of the assessee.

7. We have considered the submissions of the Ld. Departmental Representatives and perused the relevant material available on record, including the written submission filed by the assessee. Admittedly, the assesseees are maintaining books of account. The CAI fixed a rate for purchase of cotton by taking the condition prevailing in a particular locality. However, the price of the cotton would vary depending upon the moisture condition and the quality. The assesseees have purchased some of the cotton at CAI

rate and the assessees have also purchased some of the cotton at lesser than the price fixed by CAI. In some of the purchases, the rates were higher than the rate fixed by CAI. These are all the prices paid by the assessees in purchasing the raw material. The purchase is not in dispute. The fact that the books of account maintained by the assessees is not in dispute. The Assessing Officer has not taken any pain to examine the vendors and farmers from whom the cotton was purchased by the assessees. Simply by placing reliance on the rate fixed by CAI, the Assessing Officer found that the assessees have paid excess price. This Tribunal is of the considered opinion that the rate fixed by the CAI is only a guideline rate for purchasing the cotton. The guideline rate would vary depending upon the quality and other factors which is relevant in purchasing the cotton. The assessees have, in some cases, paid price lesser than what was fixed by CAI. It means that the quality of cotton purchased by the assessees in such cases is not normal. In some cases, the assessees have admittedly paid little more than what was fixed by the CAI. Therefore, it means that the quality of cotton may be above the average or normal. These are the items which have to be decided by the businessman and the Assessing Officer cannot step into the shoes of businessman and expect that

the assessee has to purchase a particular material for a particular cost. In the absence of regularity mechanism governing the vendors and farmers selling the material/cotton at a price over and above the rate fixed by CAI, this Tribunal is of the considered opinion that the Assessing Officer is not justified in making the addition on the basis of the rate fixed by CAI. The rate fixed by CAI is only a guideline and there is no restriction for the assesseees to purchase cotton either at lesser or higher rate than the one fixed by the CAI. In those circumstances, the CIT(Appeals) has rightly deleted the addition made by the Assessing Officer. This Tribunal do not find any reason to interfere with the orders of the lower authority and accordingly the same is confirmed.

8. In the result, both the appeals of the Revenue are dismissed.

Order pronounced on 13th April, 2016 at Chennai.

sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 13th April, 2016.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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