

आयकर अपीलीय अधिकरण, ए / एस एम सी न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

A / SMC BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य के समक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER

आयकर अपील सं./ITA No.99/Mds/2016

निर्धारण वर्ष / Assessment Year : 2005-06

Shri R. Ramdoss,  
185, Type II, Hospital Quarters,  
Tuticorin Post,  
Tuticorin – 628 004.

v.

The Deputy Commissioner of  
Income Tax,  
Circle – 1, Tuticorin,  
Tuticorin.

PAN : AGGPR 6042 R

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Sh. Saroj Kumar Parida, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Sh. P. Radhakrishnan, JCIT

सुनवाई की तारीख/Date of Hearing : 13.06.2016

घोषणा की तारीख/Date of Pronouncement : 11.08.2016

### **आदेश /O R D E R**

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -1, Madurai, dated 11.09.2015 and pertains to assessment year 2005-06.

2. Sh. Saroj Kumar Parida, the Ld.counsel for the assessee, submitted that there was a delay of 14 days in filing the appeal before this Tribunal. According to the Ld. counsel, the assessee

was employed in Poompuhar Shipping Corporation and he was away from India for repairing a ship belonging to Poompuhar Shipping Corporation at China. The assessee came back to India only in the first week of January, 2016. Therefore, according to the Ld. counsel, there was a delay of 14 days in filing the appeal which may be condoned.

3. On the contrary, Sh. P. Radhakrishnan, the Ld. Departmental Representative, submitted that there is no *prima facie* reason for not filing the appeal within the prescribed time. The reason that the assessee was away from India was not established by any material evidence. Therefore, according to the Ld. D.R., the delay of 14 days in filing the appeal cannot be condoned.

4. I have considered the rival submissions on either side and perused the relevant material available on record. Admittedly, there is a delay of 14 days in filing the appeal before this Tribunal. It is not in dispute that the assessee is employed in Poompuhar Shipping Corporation. The assessee is employed as Mechanical Engineer and has to necessarily repair the ship. Therefore, this Tribunal is of the considered opinion that the assessee has sufficient cause in not filing the appeal before this Tribunal within

the prescribed time. Therefore, the delay is condoned and the appeal is taken on file.

5. Now coming to the merit of the appeal, Sh. Saroj Kumar Parida, the Ld.counsel for the assessee, submitted that the only issue arises for consideration is with regard to disallowance of uniform allowance, academic research allowance and uniform making allowance given to the assessee. According to the Ld. counsel, the Assessing Officer disallowed the deduction claimed by the assessee under Section 10 of the Income-tax Act, 1961 (in short 'the Act') to the extent of ₹2,15,435/-. The assessee has received uniform allowance of ₹28,248/-, academic research allowance to the extent of ₹28,725/-, uniform making allowance to the extent of ₹1,04,462/- and exemption under Section 10(14)(ii)(4) of the Act to the extent of ₹54,000/- totalling to ₹2,15,435/-. The CIT(Appeals) allowed the claim of the assessee under Section 10(14) of the Act. However, the other claims towards uniform allowance, academic research allowance and uniform making allowance were disallowed by the CIT(Appeals) also. Referring to the circular issued by CBDT in circular No.8 of 2005 dated 29.08.2005, the Ld.counsel submitted that the CBDT clarified that for the uniform allowance to the employees, the company has been paying fringe benefit tax.

Therefore, this exemption has to be granted to the employees who are receiving the allowance.

6. On the contrary, Sh. P. Radhakrishnan, the Ld. Departmental Representative, submitted that under Section 10(14) of the Act, a special allowance granted to the employees to meet the expenses exclusively for performing duties of office or employment of profit may be exempted. The allowances granted by the employer to the extent of ₹44 lakhs were in fact allowed by the CIT(Appeals). Therefore, according to the Ld. D.R., the remaining amount is not for meeting the expenses incurred while performing duties of office. Therefore, according to the Ld. D.R., it cannot be allowed.

7. I have considered the rival submissions on either side and perused the relevant material available on record. Section 10(14) of the Act reads as follows:-

“10(14) (i) any such special allowance or benefit, not being in the nature of a perquisite within the meaning of clause (2) of section 17, specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit, as may be prescribed, to the extent to which such expenses are actually incurred for that purpose ;

(ii) any such allowance granted to the assessee either to meet his personal expenses at the place where the duties

of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides, or to compensate him for the increased cost of living, as may be prescribed and to the extent as may be prescribed :

Provided that nothing in sub-clause (ii) shall apply to any allowance in the nature of personal allowance granted to the assessee to remunerate or compensate him for performing duties of a special nature relating to his office or employment unless such allowance is related to the place of his posting or residence.”

In view of the above specific provision under Section 10(14) of the Act, any special allowance or benefit, not being in the nature of a perquisite, was granted to the employees to meet the expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office to the extent to which such expenses are actually incurred is exempted. What is excluded is with regard to allowance relating to the place of his posting or residence. In the case before us, what were given by the employer are uniform allowance, uniform making allowance and academic research allowance. This Tribunal is of the considered opinion that these allowances are specifically granted to the assessee exclusively to meet the expenses incurred in performing of duties of his office. These allowances are not related to place of his posting or residence. Therefore, this Tribunal is of the considered opinion that the same has to be allowed under Section 10(14) of the Act.

In other words, the same cannot be included in the total income of the assessee. Therefore, this Tribunal is unable to uphold the orders of the lower authorities. Accordingly, the orders of the lower authorities are set aside and the addition made by the Assessing Officer to the extent of ₹2,15,435/- is deleted.

8. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 11<sup>th</sup> August, 2016 at Chennai.

sd/-  
(एन.आर.एस. गणेशन)  
(N.R.S. Ganesan)  
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,  
दिनांक/Dated, the 11<sup>th</sup> August, 2016.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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