

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 2233/Mds/2016

निर्धारण वर्ष / Assessment Year : 2008-09

Shri A. Subramaniam,
38, Appu Street, Mylapore,
Chennai – 600 004.

v. The Income Tax Officer,
Non Corporate Ward 2(4),
Chennai – 600 034.

PAN : ABCPS0130N

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

&

आयकर अपील सं./ITA No. 2234/Mds/2016

निर्धारण वर्ष / Assessment Year : 2008-09

Shri S. Sampath Kumar,
76, Bazar Road, Mylapore,
Chennai – 600 004.

v. The Income Tax Officer,
Non Corporate Ward 2(4),
Chennai – 600 034.

PAN : AABPS2678H

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri F.C. Jain, FCA

प्रत्यर्थी की ओर से/Respondent by : Shri B. Sahadevan, JCIT

सुनवाई की तारीख/Date of Hearing : 05.01.2017

घोषणा की तारीख/Date of Pronouncement : 31.01.2017

आदेश / O R D E R

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

Both the appeals of the two independent assesseees are directed against the respective order of the Commissioner of Income

Tax (Appeals) for the assessment year 2008-09. Since common issue arises for consideration in both the appeals, we heard the same together and disposing off the same by this common order.

2. Shri F.C. Jain, the Ld. representative for the assessee submitted that there was survey in the premises of the assessee on 10.04.2011. Both the assessee offered additional income for the assessment year 2009-10. No material was found either for the assessment year 2008-09 or 2009-10. In the absence of any material, the Assessing Officer by taking the additional income voluntarily offered by the assessee for the assessment year 2009-10 estimated the income for the assessment year 2008-09. According to the Ld. representative, the additional income offered by the assessee for the assessment year 2009-10 cannot be a basis for making addition for the assessment year 2008-09, in the absence of any material for escapement of income for the assessment year 2008-09. According to the Ld. representative, the Assessing Officer cannot make any addition on the basis of income offered by the assessee for the assessment year 2009-10.

3. We heard Shri B. Sahadevan, the Ld. Departmental Representative also. According to the Ld. D.R., during the course of

survey operation, the Revenue authorities found immovable properties, copies of bank statement etc. The assessee has not produced any books of account. Therefore based upon the additional income offered by the assesseees for the assessment year 2009-10, the Assessing Officer estimated the income reasonably.

4. We have considered the rival submissions on either side and perused the material available on record. Admittedly there was a survey operation in the premises of the assesseees on 10.04.2011. During the course of survey operation, the Revenue authorities found certain material for the assessment year 2009-10, on the basis of which additional income was offered by the assesseees for the assessment year 2009-10. The Assessing Officer reopened the assessment for the assessment year 2008-09. In the absence of any books of account, the Assessing Officer estimated the taxable income on the basis of the income offered by the assesseees for the assessment year 2009-10. This Tribunal is of the considered opinion that for the purpose of making addition, there should be some material available on record. Merely because the assesseees offered additional income for the assessment year 2009-10 that cannot be a basis for making addition for the assessment year 2008-09. Each assessment year is separate and distinct. Therefore admission made by the

assessee or additional income offered by the assessee for one assessment year cannot be a basis for making addition for another assessment year. In other words, the additional income offered by the assessee for the assessment year 2009-10 cannot be a basis for making addition for assessment year 2008-09. 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 additions made by the Assessing Officer are deleted.

5. In the result, the appeals of the assessee stands allowed.

Order pronounced on 31st January, 2017 at Chennai.

Sd/-
(डि.एस. सुन्दर सिंह)
(D.S. Sunder Singh)
लेखा सदस्य/Accountant Member

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

चेन्नई/Chennai,
दिनांक/Dated, the 31st January, 2017.

JR.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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