

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"A" 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. 2083/Mds/2014

निर्धारण वर्ष /Assessment Year : 2006-07

M/s Vicons Construction Private
Limited,
No.3A, Third Floor,
40/12, Jeyamkondar Apartments,
Murray's Gate Road, Alwarpet,
Chennai - 600 018.

v. The Deputy Commissioner of
Income Tax,
Company Circle III(4),
Chennai - 600 034.

PAN : AACCV 1161 E

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Sh. Suhrith Parthasarathy,
Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri P. Radhakrishnan, JCIT

सुनवाई की तारीख/Date of Hearing : 02.02.2015

घोषणा की तारीख/Date of Pronouncement : 02.02.2015

आदेश / O R D E R

PER B.R. BASKARAN, ACCOUNTANT MEMBER:

The assessee has filed this appeal challenging the order dated 20.03.2014, passed by the Ld. Commissioner of Income Tax (Appeals)-III, Chennai and it relates to assessment year 2006-07.

2. We have heard the parties and perused the record. The appeal filed by the assessee is barred by limitation by 40 days. The assessee has moved a petition requiring the Bench to condone the delay for the reasons stated therein. On a perusal of the petition, we notice that the Accountant of the assessee fell ill and the assessee could not file the present appeal within the prescribed period.

3. We heard the parties on this preliminary issue. Having regard to the submissions made in the petition, we are of the view that there was reasonable cause in filing the present appeal belatedly. Accordingly, we condone the delay and admit the appeal for hearing.

4. Ld. counsel appearing for the assessee submitted that the main addition made in the assessment order relates to the purchases and the said addition was made on the ground that the assessee has failed to prove the genuineness of the vehicles used for transportation of materials. The Ld. counsel submitted that the Assessing Officer has taken a view that the vehicles listed out at pages 3 and 4 of the assessment order could not have been used to transport materials, since, according to Assessing Officer, some of the vehicles are Ambassador cars, autorickshaws, mopeds, etc.

The Ld. counsel submitted that the assessee was in the process of obtaining the character of vehicles from the Regional Transport Authority in order to defend its case and hence the assessee could not appear before the Ld. CIT(Appeals) despite several opportunities given by him. Since the assessee has failed to furnish the details, the Ld. CIT(Appeals) confirmed the order of the A.O.

5. The Ld. counsel submitted that the assessee has already obtained the details with regard to certain vehicles and is actively pursuing the matter with Regional Transport Authority to obtain details with respect to maintenance of vehicles also. Accordingly, he submitted that the assessee should be given one more opportunity in the interest of natural justice to substantiate its contention.

6. On the other hand, the Ld. D.R. vehemently opposed the plea of the Ld. counsel by submitting that the Ld. CIT(Appeals) has given as many as six opportunities to the assessee. Accordingly, the Ld. D.R. submitted that the present plea of the Ld. counsel should not be entertained.

7. Having heard rival submissions, we are of the view that, in the interest of natural justice, the assessee should be given one more opportunity to present its case before Ld. CIT(Appeals). At

the same time, it is a fact that the assessee has failed to appear before the Ld. CIT(Appeals) despite several opportunities given to it. Under this set of facts, we are of the view that the plea of the assessee should be entertained subject to payment of cost. When this was pointed out, the Ld. counsel readily agreed to pay the cost determined by the Bench. Accordingly, we set aside the order of the Ld. CIT(Appeals) and remit the matter to his file subject to the payment of ₹10,000/- by the assessee to the account of the Income-tax Department, on or before 7th February, 2015. The Ld. CIT(Appeals), upon satisfying himself by the payment of cost, should rehear the appeal after giving adequate opportunity of being heard to the assessee.

8. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court after conclusion of hearing on the 2nd day of February, 2015 at Chennai.

Sd/-	sd/-
(विकास अवस्थी)	(बी.आर. बास्करन)
(Vikas Awasthy)	(B.R. Baskaran)
न्यायिक सदस्य/Judicial Member	लेखा सदस्य/Accountant Member

चेन्नई/Chennai,
दिनांक/Dated, the 2nd 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.