

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' 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 Nos.2291 & 2292/Mds/2015

निर्धारण वर्ष / Assessment Years : 2011-12 & 2008-09

The Assistant Commissioner of
Income Tax,
Corporate Circle 3(1),
Chennai - 600 034.

v. M/s Tallboy Stationery Pvt. Ltd.,
New No.130, Old No.34,
Nelson Manickam Road,
Aminjikarai, Chennai - 600 029.

(अपीलार्थी/Appellant)

PAN : AACCT 3483 H

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri A.B. Koli, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri G. Baskar, Advocate

सुनवाई की तारीख/Date of Hearing : 02.03.2016

घोषणा की तारीख/Date of Pronouncement : 29.04.2016

आदेश / O R D E R

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

Both the appeals of the Revenue are directed against the respective orders of the Commissioner of Income Tax (Appeals)-11, Chennai, dated 14.10.2015, for the assessment years 2011-12 and 2008-09. Since common issue arises for consideration in both

these appeals, we heard these appeals together and disposing of the same by this common order.

2. Sh. A.B. Koli, the Ld. Departmental Representative, submitted that the only issue arises for consideration in both the appeals is with regard to addition made by the Assessing Officer under Section 2(22)(e) of the Income-tax Act, 1961 (in short 'the Act'). According to the Ld. D.R., the Assessing Officer found that the assessee received a loan of ₹3,92,05,903/- from M/s Chennai Micro Print Pvt. Ltd. The assessee-company and M/s Chennai Micro Print Pvt. Ltd. had common Directors. One Shri S. Ramu is holding 50% shares in the assessee-company and also holding 50% shares in Chennai Micro Print Pvt. Ltd. Similarly, one Shri V. Ramesh is holding 50% shares in the assessee-company and 50% in Chennai Micro Print Pvt. Ltd. Since both the companies are having common shareholders, the Assessing Officer found that the loan was advanced for the benefit of shareholders. Therefore, the same was treated as dividend under Section 2(22)(e) of the Act. The Ld. D.R. further submitted that Chennai Micro Print Pvt. Ltd. has accumulated profits of ₹7,98,16,378/- as on 01.04.2010 and their accumulated profits as on 31.103.2011 was ₹9,53,94,286/-.

Therefore, the CIT(Appeals) is not justified in deleting the addition made by the Assessing Officer.

3. On the contrary, Shri G. Baskar, the Ld.counsel for the assessee, submitted that receiving the loan by the assessee-company is not in dispute. Both the companies, namely, assessee-company and Chennai Micro Print Pvt. Ltd. had common shareholders. When the loan was advanced for the benefit of the shareholders, the addition has to be made only in the hands of shareholders and not in the hands of others. In the case before us, according to the Ld. counsel, the assessee-company is not a shareholder of Chennai Micro Print Pvt. Ltd. Therefore, the CIT(Appeals) by placing reliance on the judgment of Madras High Court in CIT v. Printwave Services P. Ltd. (2015) 373 ITR 665 and the decision of this Bench of the Tribunal in assessee's own case for assessment year 2010-11 in I.T.A. No. 562/Mds/2015, deleted the addition made by the Assessing Officer.

4. We have considered the rival submissions on either side and perused the relevant material available on record. As rightly submitted by the Ld.counsel for the assessee, receipt of loan by the assessee-company from M/s Chennai Micro Print Pvt. Ltd. is not in

dispute. It is also not in dispute that both the companies have common shareholders. The only contention of the assessee is that if at all any deemed dividend is to be assessed, it has to be assessed only in the hands of shareholders and not in the hands of other persons. This is what exactly held by the Madras High Court in Printwave Services P. Ltd. (supra), which was followed by this Tribunal in the assessee's own case for assessment year 2010-11 in I.T.A. No. 562/Mds/2015. In view of the above, this Tribunal is of the considered opinion that the deemed dividend has to be assessed only in the hands of the shareholders for whose benefit the loan was given to the assessee-company. The assessee-company admittedly is not a shareholder of Chennai Micro Print Pvt. Ltd. Therefore, there cannot be any addition under Section 2(22)(e) of the Act in the hands of assessee-company. Therefore, this Tribunal do not find any reason to interfere with the orders of the CIT(Appeals) and accordingly, the same are confirmed.

5. In the result, both the appeals filed by the Revenue are dismissed.

Order pronounced on 29th 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 29th April, 2016.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-11, Chennai-34
4. Principal CIT-3, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.