

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.1681/Mds/2014

निर्धारण वर्ष / Assessment Year : 2009-10

M/s Tropical Agro System
(India) Pvt. Ltd.,
72, Marshalls Road, Egmore,
Chennai - 600 008.

v. The Joint Commissioner
of Income Tax,
Company Range – III,
Chennai - 600 034.

PAN : AA ACT 4250 E

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Dr. Anita Sumanth, Advocate

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

सुनवाई की तारीख/Date of Hearing : 27.04.2015

घोषणा की तारीख/Date of Pronouncement : 15.05.2015

आदेश / O R D E R

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

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-III, Chennai, dated 17.03.2014 and pertains to assessment year 2009-10.

2. Dr. Anita Sumanth, the Ld.counsel for the assessee, submitted that the assessee-company is engaged in the business of manufacturing and sale of pesticides and chemicals. During the course of business activity, the assessee had transaction with one M/s Gharda Chemicals. In the assessment proceedings, the Assessing Officer found that in the accounts of M/s Gharda Chemicals, the books of account of the assessee showed a balance of ₹80,97,910/-. However, M/s Gharda Chemicals confirmed the balance to the extent ₹32,47,029/-. The assessee explained to the Assessing Officer that some of the cash discounts and debit notes were not entered by the party and also explained that an amount of ₹53,18,014/- was adjusted in the books of M/s Gharda Chemicals by settling the dues of other party named M/s J.U. Pesticides. However, the Assessing Officer found that the sum of ₹50,50,881/- was not reflected in the accounts of M/s Gharda Chemicals in the year under consideration. Therefore, he treated the same as unexplained credit in the hands of the assessee. According to the Ld.counsel, an amount of ₹53,18,014/- was due to the assessee by M/s Gharda Chemicals and the same was adjusted by M/s Gharda Chemicals in the books. However, the entries were passed. Since the adjustment of entry was passed in the books of account as per

the mutual understanding in the normal course of business, therefore, according to the counsel, it cannot be construed as unexplained credit.

3. On the contrary, Shri P. Radhakrishnan, the Ld. Departmental Representative, submitted that all the book entries, which are said to be made, were made subsequent to 31.03.2009. According to the Ld. D.R., the assessee is a company, therefore, the accounts of the assessee have to be audited and finalized as per the provisions of Companies Act as well as Income-tax Act. Therefore, if there was any adjustment of entry, as claimed by the assessee, it should not have been made before 31.03.2009. In this case, the statement produced by the assessee before the lower authorities show that the adjustment notes have been made subsequent to 31.03.2009. Therefore, the CIT(Appeals) has rightly confirmed the addition made by the Assessing Officer.

4. We have considered the rival submissions on either side and perused the relevant material on record. The assessee filed additional evidence before the CIT(Appeals) to show that the adjustment entries were made in the books of account. Even though the CIT(Appeals) admitted the same, it appears that he has not considered the additional material filed by the assessee. From the

order of the CIT(Appeals) it appears that a remand report was called for from the Assessing Officer. In the remand report, the Assessing Officer observed that the adjustment entries were made subsequent to 31.03.2009. In fact, the CIT(Appeals) has reproduced the remand report in his order but without any further discussion, dismissed the appeal of the assessee. When the assessee claims that some of the cash discounts and debit notes were not entered by M/s Gharda Chemicals and the amount of ₹53,18,014/- was adjusted in the books of M/s Gharda Chemicals by settling the dues of M/s J.U. Pesticides, this claim ought to have been examined by the CIT(Appeals). Entry in the books may be one of the relevant factors to be considered. However, the entry in the books alone may not be decisive for determining the transaction between the parties. Therefore, on the basis of the books, the Assessing Officer has to examine the issue afresh in order to find out the reason for discrepancy in the books. Whether any cash discount and debit notes are omitted to enter in the books of account of M/s Gharda Chemicals and whether the dues of M/s Gharda Chemicals was settled through M/s J.U. Pesticides, as claimed by the assessee, needs to be examined. Since these factors were not examined by both the lower authorities, this Tribunal is of the considered opinion that the matter needs to be re-

examined by the Assessing Officer. Accordingly, we set aside the orders of the lower authorities and the issue of addition of undisclosed income of ₹53,18,014/- is remitted back to the file of the Assessing Officer. The Assessing Officer shall reconsider the issue afresh in the light of the material that may be produced by the assessee and thereafter decide the issue after giving reasonable opportunity to the assessee.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 15th May, 2015 at Chennai.

sd/-
(A.Mohan Alankamony)
(ए. मोहन अलंकामणी)
लेखा सदस्य/Accountant Member

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

चेन्नई/Chennai,
दिनांक/Dated, the 15th May, 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
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.