

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
' C' (SMC) BENCH : CHENNAI

श्री अब्राहम पी. जॉर्ज, लेखा सदस्य के समक्ष।
[BEFORE SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER]

आयकर अपील सं./I.T.A. No. 666/Mds/2017
निर्धारण वर्ष /Assessment year : 2007-2008.

M/s. Euro Asie Interiors Pvt. Ltd, No.19 (Old No.230)
Kilpauk Garden Road,
Kilpauk, Chennai 600 010. **Vs.** The Deputy Commissioner of
Income Tax,
Corporate Circle 2(1)
Chennai.

[PAN AABCE 2696J]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri. Saroj Kumar Parida, Adv
प्रत्यर्थी की ओर से /Respondent by : Shri. M.S. Nethrapal, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing : 29-05-2017

घोषणा की तारीख /Date of Pronouncement : 31-05-2017

आदेश / ORDER

This is an appeal filed by the assessee directed against an order dated 28.12.2016 of Id. Commissioner of Income Tax (Appeals) - 9, Chennai.

2. Grievance raised by the assessee is on an addition of ₹51,04,580/-, disbelieving its claim of advance received from customers.

3. Assessee an importer and seller of furniture and accessories had filed its return of income for the impugned assessment

year disclosing income of ₹18,95,169/-. In the schedule filed alongwith Balance Sheet, appended to the return of income, a sum of ₹51,04,580/- was shown as 'advance from customers'. It seems assessee did not furnish any details for this amount before Id. Assessing Officer. Id. Assessing Officer made an addition of the said amount while completing the assessment. Though the assessee filed names and address of the parties from whom the advances were received, during the course of its appeal proceedings before Id. Commissioner of Income Tax (Appeals), latter authority, refused to consider such evidence considering it as fresh, for want of application under Rule 46A of Income Tax Rules, 1962. He thus confirmed the disallowance.

4. Now before me, Id. Authorised Representative submitted that advance received from customers could not be treated as income. According to him, Id. Commissioner of Income Tax (Appeals) had taken a very technical view and ignoring the full details of advances submitted before him, confirmed the addition.

5. Per contra, Id. Departmental Representative strongly supported the orders of the authorities below.

6. I have considered the rival contentions and perused the orders of the authorities below. It might be true that assessee had not

complied with the technicalities of Rule 46A while giving details of the parties from whom it had received advances before the Id. Commissioner of Income Tax (Appeals). However, in my opinion there is much strength in the argument of the assessee, that advances received from customers, if proved to be correct, could not be treated as income of the assessee. In such circumstances, not considering the evidence filed by the assessee which could prove that the subject addition was in fact advances received from the customers, will in my opinion result in miscarriage of justice. I therefore, set aside the orders of the lower authorities and remit the issue back to the file of the Id. Assessing Officer, for consideration afresh in accordance with law. Assessee shall be given adequate opportunity to file evidence in support of its claim.

7. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced on Wednesday, the 31st day of May, 2017, at Chennai.

Sd/-

(अब्राहम पी. जॉर्ज)

(ABRAHAM P. GEORGE)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai

दिनांक/Dated:31st May, 2017.

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

3. आयकर आयुक्त (अपील)/CIT(A)5. विभागीय प्रतिनिधि/DR

2. प्रत्यर्थी/Respondent

4. आयकर आयुक्त/CIT

6. गार्ड फाईल/GF