

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.890/Mds/2015

निर्धारण वर्ष / Assessment Year : 2008-09

Smt. V. Lalitha,
Prop: M/s V.L. Textiles,
15-B, Weavers Colony No.2,
Tiruchengode – 637 211.

v. The Assistant Commissioner
of Income Tax,
Circle – II,
Salem.

PAN : ABVPL 7873 J

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S. Sridhar, Advocate

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

सुनवाई की तारीख/Date of Hearing : 11.06.2015

घोषणा की तारीख/Date of Pronouncement : 26.06.2015

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), Salem, dated 31.03.2015 and pertains to assessment year 2008-09.

2. Shri S. Sridhar, the Ld.counsel for the assessee, submitted that the Assessing Officer, on the basis of the direction of the Addl. CIT under Section 144A of the Income-tax Act, 1961 (in short 'the Act'), made an addition to the extent of ₹20,97,170/- and another sum of ₹1,60,124/- towards deficit stock. According to the Ld. counsel, there was a survey in the premises of the assessee and in fact, the assessee admitted that she would offer additional income to the extent of ₹20,97,170/-. By way of letter dated 14.12.2010, the assessee explained to the Assessing Officer that during the course of survey operation, she was under mental pressure and out of nervousness she signed the statements. Therefore, it could not be acted upon. According to the Ld. counsel, an opportunity may be given to the assessee to explain how the addition could not be made. Referring to Section 144A of the Act, the Ld.counsel submitted that income cannot be added unless an opportunity is given to the assessee by the Addl. Commissioner. Since no opportunity was given, according to the Ld. counsel, the case may be remitted back to the file of the Assessing Officer to reconsider the matter afresh.

3. We have heard Sh. P. Radhakrishnan, the Ld. Departmental Representative also. The Ld. D.R. submitted that a survey was

conducted on 4.10.2007 and on 14.12.2010, the assessee retracted the statement recorded during the survey, almost after three years. Therefore, there is no justification in claiming now that the addition could not be made on the basis of the statement recorded during the course of survey operation.

4. We have considered the rival submissions on either side and perused the relevant material on record. We have also carefully gone through the provisions of Section 144A of the Act. Proviso to Section 144A clearly says that no directions which are prejudicial to the assessee shall be issued before an opportunity is given to the assessee to be heard. Therefore, it is obvious that the Addl. Commissioner cannot give any direction without giving an opportunity to the assessee when it is prejudicial to the interests of the assessee. In this case, the assessee claims that other than the statement said to be recorded during the course of survey, there is no other material available on record. It is not known whether any incriminating material was found during the course of survey. Therefore, this Tribunal is of the considered opinion that the matter needs to be reconsidered by the Assessing Officer as contended by the Ld.counsel. Accordingly, the orders of the lower authorities are set aside and the entire issue is remitted back to the file of the

Assessing Officer. The Assessing Officer shall reconsider the issue afresh and thereafter decide the matter in accordance with law after giving a reasonable opportunity to the assessee.

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

Order pronounced on 26th June, 2015 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 26th June, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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