

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI
श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री जी. पवन कुमार, न्यायिक सदस्य के समक्ष
BEFORE SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER
AND SHRI G. PAVAN KUMAR, JUDICIAL MEMBER

आयकरअपीलसं./I.T.A.No.2901/Mds/2016

(निर्धारणवर्ष / Assessment Year: 2012-13)

V. Nagarajan (HUF), 36/1, Raja Kadu, 1 st Street, Erode – 638 001	Vs	The Asst. Commissioner of Income Tax, Circle 1, Erode-638 001.
PAN: AADHV7044L		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Ms. Nithya Sankaran, CA
प्रत्यर्थीकीओरसे/Respondent by	:	Shri Shiva Srinivas, JCIT

सुनवाईकीतारीख/Date of hearing	:	15.03.2017
घोषणाकीतारीख /Date of Pronouncement	:	27.03.2017

आदेश / ORDER

Per A. Mohan Alankamony, AM:-

This appeal by the assessee is directed against the order passed by the Ld. Commissioner of Income Tax (Appeals)-3, Coimbatore dated 08.07.2016 in IT Appeal No.63/15-16 for the assessment year 2012-13 passed u/s. 250(6) r.w.s. 143(3) of the Act.

2. The assessee has raised several grounds in its appeal, however the crux of the issue is that the Ld.CIT(A) has erred in not allowing deduction u/s.57(iv) of the Act by upholding the

order of the Ld.AO, who had rejected the claim of the assessee stating that the revised return filed by the assessee is not valid.

3. The brief facts of the case are that the assessee is a HUF earning income from house property and income from other sources filed its return of income for the relevant assessment year belatedly on 29.03.2013 admitting total income of Rs.71,45,960/- and agricultural income of Rs.30,000/-. Thereafter the assessee filed a revised return on 17.04.2013 wherein total income of Rs.38,18,480/- was disclosed along with the agricultural income of Rs.30,000/-. The case was taken up for scrutiny under CASS and assessment was completed u/s.143(3) of the Act on 23.03.2015, wherein the Ld. AO disallowed the claim of deduction u/s.57(iv) of the Act to the assessee on the ground that the revised return filed by the assessee is not valid and by placing reliance in the decision of the Hon'ble Apex court in the case Goetze India Ltd v. CIT reported in 284 ITR 323 wherein it was held that any fresh claim made by the assessee otherwise than in the return of income cannot be entertained. On appeal, the Ld.CIT(A) also upheld the order of the Ld.AO by observing as under:

“I have carefully considered the grounds and submissions of the appellant and the assessment order. The appellant had filed return of income for the assessment year 2012-13 on 29/3/2013 admitting total income of Rs.71,45,960/-. This is after the due date. The appellant claimed 50% deduction on enhanced compensation by filing revised return of income on 17/4/2013. If the revised return to be accepted as valid the appellant should have filed the original return within the due date. Since this has not been done the Assessing Officer is correct in treating the revised return as invalid”

4. The Ld. AR submitted before us that the assessee has every right to raise a legal issue even in the appellate stage for the first time. Reliance was placed on the decision National Thermal Power Company Ltd vs. CIT reported in 229 ITR 383. She therefore argued stating that the issue with respect to the deduction U/s.57(iv) of the Act towards interest received against compensation for acquisition of land by the State Government may be decided on merits. The Ld. DR could not controvert to the submission of the Ld.AR.

5. We have heard the rival submissions and carefully perused the materials on record. By virtue of the decision of the Hon'ble Apex court Goetze India Limited and National Thermal Power Company Limited cited supra, it is clear that the Tribunal has power under the Act to admit any legal issue raised by the

assessee even for the first time during the appellate proceedings. Therefore in the interest of justice, we hereby admit the ground raised by the assessee for the first time at the appellate stage and further remit the matter back to the file of Ld.AO with directions to decide the issue raised by the assessee in accordance with law and merits.

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

Order pronounced on the 27th March, 2017.

Sd/-
(जी. पवन कुमार)
(G. Pavan Kumar)
न्यायिक सदस्य/Judicial Member

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

चेन्नई/Chennai,

दिनांक/Dated 27th March, 2017

JR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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