

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

“D” 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.1143/Mds/2015

निर्धारण वर्ष / Assessment Year : 2010-11

M/s Sri Varalakshmi Company,
No.3, Komarapalaym,
Mallur Via, Salem – 636 203.

PAN : AANFS 2534 E
(अपीलार्थी/Appellant)

v. The Assistant
Commissioner of Income
Tax,
No.3, Gandhi Road,
Salem – 636 007.
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri G. Baskar, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri A.B. Koli, JCIT

सुनवाई की तारीख/Date of Hearing : 10.08.2015

घोषणा की तारीख/Date of Pronouncement : 11.09.2015

आदेश /O R D E R

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

This appeal of the assessee is directed against the order of
Commissioner of Income Tax (Appeals), Salem, dated 27.03.2015
and pertains to assessment year 2010-11.

2. Shri G. Baskar, the Ld.counsel for the assessee, submitted that the assessee is a manufacturer and exporter of Tapioca and Sago products. The assessee has purchased Tapioca from the farmers and paid cash. According to the Ld. counsel, the assessee returned an income of ₹1,80,75,780/- on the sales turnover of ₹63.14 Crores. The assessee purchased Sago from M/s Sago Serve to the extent of ₹14,45,57,440/- and from others to the extent of ₹4,10,41,225/-. According to the Ld. counsel, the agriculturists, who cultivated Tapioca, did not have any printed voucher. In respect of the payment of ₹14,45,57,440/- made to M/s Sago Serve, the Assessing Officer allowed the claim of the assessee completely. The Assessing Officer doubted only on the payment made by the assessee directly to the farmers, in the absence of any printed vouchers maintained by the agriculturists. The assessee has no other alternative except to have note for purchase and payment made to them. The Assessing Officer found that the details available on the notes are not cross verifiable, therefore, he estimated the disallowance at ₹15 lakhs. However, the CIT(Appeals) restricted the same to ₹10 lakhs. On a query from the Bench whether the disallowance could be reasonably estimated, the Ld.counsel submitted that since the assessee was purchasing

Tapioca directly from the farmers, maintaining proper vouchers was not practically possible and any estimate made by this Tribunal will be followed by the Assessing Officer for the rest of the years. Therefore, according to the Ld. counsel, that would affect the assessee adversely. Therefore, the Ld.counsel submitted that the entire addition of ₹15 lakhs may be deleted.

3. On the contrary, Shri A.B. Kohli, the Ld. Departmental Representative submitted that the assessee has not maintained any voucher for payment. Therefore, the Assessing Officer could not verify the payments said to be made by the assessee. In the absence of any material, the Assessing Officer reasonably estimated the disallowance at ₹15 lakhs. The CIT(Appeals), has however, restricted the same at ₹10 lakhs. Hence no interference is called for.

4. We have considered the rival submissions on either side and perused the relevant material on record. Admittedly, the assessee purchased Sago from M/s Sago Serve to the extent of ₹14,45,57,440/-. The Assessing Officer accepted this purchase and no disallowance was made. In respect of ₹4,10,41,225/-, the assessee's claim was that this payment was made to farmers who

cultivated Tapioca in their field. The contention of the assessee before the CIT(Appeals) appears to be that in the absence of any specific defect, discrepancy or inaccuracy found in the books of account, no disallowance is called for. But, the fact remains that the assessee paid cash to the farmers and the notes said to be prepared by them contain only names and signature. It did not contain any other particulars to verify the identity of the recipients. If the assessee had mentioned name of the recipients along with their village name in the notes that would have been an evidence by which the Assessing Officer might have made cross verification for the payments. In the absence of any other particulars other than the names of the farmers, this Tribunal is of the considered opinion that the assessee has not maintained the vouchers properly. Even though full address of the farmers living at villages may not be possible, there should not be any difficulty for the assessee in mentioning names of the farmers and the villages from where the said farmers are hailing. By the mention of names of the farmers and the villages from where they are hailing, one could easily identify the persons who supplied Tapioca to the assessee. Unfortunately, the assessee has not mentioned even the minimum required particulars of names of the villages. Therefore, this Tribunal is of the considered opinion that the possibility of inflating

the expenditure cannot be ruled out as observed by both the authorities below. Though the Assessing Officer disallowed ₹15 lakhs, the CIT(Appeals) restricted the same to ₹10 lakhs. This Tribunal is of the considered opinion that disallowance of ₹10 lakhs is on the higher side, therefore, a disallowance of ₹5 lakhs would meet the ends of justice. Accordingly, the orders of the lower authorities are set aside and the Assessing Officer is directed to disallow only ₹5 lakhs in respect of cash payments made to the farmers for purchasing Tapioca.

5. In the result, the appeal of the assessee is partly allowed.

Order pronounced on 11th September, 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 11th September, 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. |