

आयकर अपीलीय अधिकरण, बी / एस एम सी न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

' B' SMC BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य के समक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER

आयकर अपील सं./ITA No.389/Mds/2016

निर्धारण वर्ष / Assessment Year : 2005-06

Shri Jyoti L. Vyas,
No.304, Akash Ganga Apartment,
19, Flowers Road, Kilpauk,
Chennai - 600 010.

v. The Income Tax Officer,
Business Ward – XIII(2),
Chennai - 600 034.

PAN : AERPJ 0881 M

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri R. Venkatesh, CA

प्रत्यर्थी की ओर से/Respondent by

: Shri M. Murugaboopathy, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 16.06.2016

घोषणा की तारीख/Date of Pronouncement : 18.08.2016

आदेश / O R D E R

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) – 12, Chennai, dated 22.12.2015, and pertains to assessment year 2005-06.

2. Shri R. Venkatesh, the Ld. representative for the assessee, submitted that the only issue arises for consideration is with regard to

addition of ₹10,00,000/- being the cash deposit in the bank account. According to the Ld. representative, the Assessing Officer passed order *ex parte* under Section 144 of the Income-tax Act, 1961 (in short "the Act"). According to the Ld. representative, the assessee's mother sold her silver household articles and personal effects and the same was used for deposit in the assessee's bank account. The assessee was initially engaged in the business of trading in glass bottles in the name of Vinayaka Glass Works. The assessee closed his business in the year 2002 and engaged in part time commission business during assessment years 2009-10 and 2010-11. According to the Ld. representative, the assessee was stationed in Bangalore and visiting Chennai occasionally. Due to family dispute, the assessee could not visit Chennai. Therefore, the assessee could not represent before Assessing Officer and present all material evidence with regard to cash deposit. Ld. representative submitted that an opportunity may be given to the assessee to produce all the necessary material before Assessing Officer

3. On the contrary, Shri M. Murugaboopathy, the Ld. Departmental Representative, submitted that the Assessing Officer has given adequate opportunity. However, the same was not availed

by the assessee. Therefore, the CIT(Appeals) has confirmed the addition made by the Assessing Officer.

4. I have considered the rival submissions on either side and perused the relevant material available on record. Admittedly, the assessee has made cash deposit of ₹10,00,000/- in the bank account. Therefore, it is for the assessee to explain the source for making the deposit. The assessee claimed that due to some family dispute, he was stationed in Bangalore and he could not visit Chennai. Therefore, he could not represent the case before the Assessing Officer with necessary material. This Tribunal is of the considered opinion that the assessee should be given adequate opportunity to explain the source of deposit in the bank account. Giving one more opportunity to the assessee would not prejudice the Revenue in any way. This Tribunal is of the considered opinion that giving one more opportunity to the assessee would promote the cause of justice.

5. Under the scheme of Income-tax Act, the Assessing Officer is expected to compute the taxable income as per the provisions of law. Therefore, giving one more opportunity would enable the Assessing Officer to compute the correct taxable income as per the scheme of

the Act. Accordingly, the orders of the authorities below are set aside and the entire issue is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the issue in the light of the material that may be produced by the assessee and thereafter, decide the issue afresh after giving a reasonable opportunity to the assessee.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 18th August, 2016 at Chennai.

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

चेन्नई/Chennai,
दिनांक/Dated, the 18th August, 2016.
Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-12, Chennai-34
4. Principal CIT-3, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.