

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"C" 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.2729/Mds/2014

निर्धारण वर्ष / Assessment Year : 2010-11

Mrs. Amudha Priya Ramesh,
No.8, Anna Street,
Sholinganallur,
Chennai - 600 019.

v. The Deputy Commissioner
of Income Tax,
Business Circle,
Tambaram,
Chennai - 600 045.

PAN : AGJPA 4046 M

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Sh.C. Ramesh Kumar, CA

प्रत्यर्थी की ओर से/Respondent by : Shri A.V. Sreekanth, JCIT

सुनवाई की तारीख/Date of Hearing : 14.05.2015

घोषणा की तारीख/Date of Pronouncement : 19.06.2015

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)-II, Chennai, dated 22.07.2014 and pertains to assessment year 2010-11.

2. Shri C. Ramesh Kumar, the Ld. representative for the assessee, submitted that the assessee is engaged in the business of earth moving contract. According to the Ld. representative, the assessee hired lorries and paid the hire charges. Since the recipients of the hire charges filed Form 15J, according to the Ld. representative, the assessee has not deducted tax as required under the Income-tax Act. However, the Assessing Officer disallowed the claim of the assessee on the ground that as per Rule 29D(3) of the Income-tax Rules, 1962, the assessee is expected to file Form 15J on or before 30.06.2010 but, in this case, according to the Ld. representative, the assessee filed the Forms only on 08.02.2013. The Ld. representative submitted that however, the 15J Forms were collected from the recipients before 30.06.2010. The delay was only in filing the Forms before the concerned authority and not in collecting the Forms. The Ld. representative also filed copies of Form 15J/15-I before this Tribunal.

3. On the contrary, Shri A.V. Sreekanth, submitted that the assessee is expected to file Form 15J and Form 15-I on or before 30.06.2010. However, these were filed only on 8.02.2013, beyond the period prescribed under the Income-tax Rules. Therefore, the Assessing Officer found that there was failure on the part of the

assessee for non-deduction of tax. Accordingly, the payment of hire charges was disallowed under Section 40(a)(ia) of the Income-tax Act, 1961 (in short 'the Act') and the CIT(Appeals) has rightly confirmed the addition.

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 Rule 29D(3) of Income-tax Rules, 1962. The Rule clearly says that the assessee has to file Form 15-J on or before 30.06.2010. However, admittedly, these Forms were filed only on 08.02.2013. The assessee now claims that all the 15-J and 15-I Forms were obtained before 30.06.2010. This Tribunal is of the considered opinion that Form 15-J/15-I has to be filed before the lower authorities before completion of assessment proceedings in order to verify the collection/payment of taxes by the respective assessees. Admittedly, the assessee now claims that the Forms were obtained from the recipients of the amount before 30.06.2010. This Tribunal is of the considered opinion that obtaining Form 15-J/15-I is mandatory within the time period. However, filing before the concerned authority is only discretionary. If the assessee files the 15-J/15-I Forms before completion of assessment, then there will be sufficient compliance. The assessee now filed copies of

Form 15-I before this Tribunal. However, genuineness of the Forms filed before this Tribunal is not verified by any of the authorities. Therefore, the orders of the lower authorities are set aside. The entire issue is remitted back to the file of the Assessing Officer. The Assessing Officer shall verify the genuineness and otherwise of 15-J/15-I Forms filed by the assessee and thereafter decide the issue afresh, after giving reasonable opportunity to the assessee. We make it clear that if the assessee obtained the 15-J/15-I Forms before 30.06.2010, then there is no need for any disallowance under Section 40(a)(ia) of the Act. In other words, it has to be treated as sufficient compliance of Rule 29D(3) of the Income-tax Rules, 1962.

5. With the above observation, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 19th June, 2015 at Chennai.

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

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

चेन्नई/Chennai,
दिनांक/Dated, the 19th June, 2015.
Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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