

**आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई ।**

IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH : CHENNAI

**श्री बी.आर. बास्करन, लेखा सदस्य एवं  
श्री एस. एस. गोदारा, न्यायिक सदस्य के समक्ष ।**

[BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND  
SHRI S. S. GODARA, JUDICIAL MEMBER]

S.P.No. 528/Mds/2014

and

आयकर अपील सं./I.T.A.No.2974/Mds/2014

निर्धारण वर्ष /Assessment year : 2010-11

Shri B. Kamaraj  
74, Jinnah Street  
Erode 638 001

**[PAN BJUPK 9323 G ]**

**(अपीलार्थी/Appellant)**

**Vs.** The Income Tax Officer  
Ward I(2)  
Erode

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by

: Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri A.V.Sreekanth, JCIT

सुनवाई की तारीख/Date of Hearing

: 30-01-2015

घोषणा की तारीख /Date of Pronouncement

: 06-02-2015

**आदेश / O R D E R**

**PER S.S.GODARA, JUDICIAL MEMBER**

This assessee's petition seeks stay of the impugned demand of ₹2,46,410/- arising from additions of ₹ 4 lakhs pertaining to value of stock admitted in the course of 'survey' and cash deposits in the bank account of ₹1,50,500/-, made in course of a 'regular' assessment

framed on 28.3.2013 and affirmed in the CIT(A)'s order under challenge.

**2.** After arguing for sometime, both parties express no objection in case the main appeal itself is taken up for hearing. Therefore, we proceed to decide the appeal on merits.

**3.** The assessee, an 'individual', deals in wholesale and retail rice business. The department had carried out a 'survey' in his business premises on 2.3.2010. There is no dispute that the regular account books like day book, ledger, purchase and sale register pertaining to the aforesaid commodities' stock are not maintained. The assessee's father Shri G.Balakrishnan had got recorded his statement. He deposed that the impugned 'survey' had disclosed physical stock of two concerns namely M/s G. Balakrishnan Rice Mandy of ₹ 40,24,630/- and Periyar Traders of ₹ 11,04,840 totalling to ₹ 51,29,470/-. This was stated to be their accumulated income since the year 2007. Shri G. Balakrishnan undertook to admit a sum of ₹ 40,24,630/- in his case and the balance amount of ₹ 11,04,840/- to be declared in the assessee's case. The assessee also appears to have agreed with the said statement.

4. The assessee filed his return on 31.8.2010 disclosing total income of ₹ 4,93,870/-. The same was 'summarily' processed. The Assessing Officer took up 'scrutiny'. He inter alia noticed from the assessee's computation of total income that only a sum of ₹ 7,04,840/- had been declared as against that undertaken in the course of 'survey' at ₹ 11,04,840/- giving rise to a differential amount of ₹ 4 lakhs. The assessee pleaded that this amount of ₹ 4 lakhs stood split over and already declared as income to the extent of ₹ 1.50 lakhs in assessment year 2008-09 and ₹ 2.50 lakhs in 2009-10; respectively. The Assessing Officer heavily relied on the 'survey' statement aforesaid and rejected the assessee's explanation. He also added a further sum of ₹ 1,50,500/- cash deposited by quoting section 68 of the Act.

5. The assessee preferred an appeal. The CIT(A) has affirmed both the these additions. This leaves the assessee aggrieved.

6. We have heard both parties and gone through the case file. The assessee has pleaded two substantive grounds. No argument is advanced qua the latter issue. This leaves us with the former issue of value of stock not admitted of ₹ 4 lakhs only. There is no dispute that the assessee/his father in the course of 'survey' itself had made it clear that this stock denoted accumulated income since the year 2007.

The Revenue does not altogether reject the contents thereof. The assessee has already declared this differential sum of ₹ 4 lakhs by splitting up amount in the preceding two assessment years (supra). He has also failed to maintain regular books and other material in support of the claim. Faced with this situation, we deem it appropriate in the larger interest of justice that this addition of ₹ 4 lakhs deserves to be maintained to the extent of ₹ 1 lakh only. We order accordingly. The issue is set at rest. The balance addition of ₹ 3 lakhs is deleted.

7. The assessee's appeal is partly allowed. The stay petition is rendered infructuous.

Order pronounced on Friday, the 6<sup>th</sup> of February, 2015, at Chennai.

Sd/-

(बी.आर. बास्करन)  
(B.R. BASKARAN)

**लेखा सदस्य /ACCOUNTANT MEMBER**

चेन्नई/Chennai

दिनांक/Dated: 6<sup>th</sup> February, 2015

RD

Sd/-

(एस. एस. गोदारा)  
(S. S. GODARA)

**न्यायिक सदस्य/JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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