

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH: CHENNAI**

श्री जॉर्ज माथन, न्यायिक सदस्य एवं  
श्री ए. मोहन अलंकामणी, लेखा सदस्य के समक्ष

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER, AND  
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1100/Mds/2017  
निर्धारण वर्ष /Assessment Year: 2009-10

Shri S.Arul Murugan,  
Plot No.57/D, No.9/8,  
Vijayaganapathy Nagar,  
Ullagaram, Chennai-600 091.

**Vs.** The Income Tax Officer,  
International Taxation-I(1),  
Chennai-600 034.

**[PAN: AJSPA 8578 J]**

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by

: Shri S.Sridhar, Adv.

प्रत्यर्थी की ओर से /Respondent by

: Smt. R. Rajeswari, JCIT

सुनवाई की तारीख/Date of Hearing

: 11.07.2017

घोषणा की तारीख /Date of Pronouncement

: 11.07.2017

**आदेश / O R D E R**

**PER GEORGE MATHAN, JUDICIAL MEMBER:**

ITA No.1100/Mds/2017 is an appeal filed by the assessee against the Order of Commissioner of Income Tax (Appeals)-16, Chennai, in ITA No.56/CIT(A)-16/2009-10 dated 22.03.2017 for the AY 2009-10.

2. Smt. R. Rajeswari, JCIT, represented on behalf of the Revenue and Shri S.Sridhar, Adv., represented on behalf of the assessee.

3. It was submitted by the Ld.AR that the assessee is an individual who is having a non-residence status for the AY 2009-10. The assessee had received salary of Rs.27,90,400/- from M/s.Gati Asia Pacific PTE Ltd. The assessee had filed his original return of income for the AY 2009-10 on 08.10.2009, wherein, the assessee had in Schedule-EI under the head exempt income specified the amount of Rs.27,90,400/- as exempt. The assessee had consequently claimed the refund of Rs.2,54,120/- paid as self-assessment tax. The return filed by the assessee came to be processed by the Central Processing Centre, Bangalore and an intimation u/s.143(1) came to be issued on the assessee wherein the status has been recorded as non-resident but tax has been computed on his salary which he has claimed as exempt. Aggrieved with the intimation u/s.143(1), the assessee has filed rectification application u/s.154 on 31.07.2010 intimating that he has filed the return of income admitting 'Nil' income by claiming exemption on the income of Rs.27,90,400/- since the same was earned outside India and also on the ground that the he was outside India for 288 days for the relevant AY. It was a submission that the rectification application filed by the assessee came to be disposed off vide order dated 26.05.2016 by the AO wherein it was mentioned that there is no mistake apparent from the record. Consequently, the rectification petition was rejected. It was a submission that on appeal, the

Ld.CIT(A) upheld the stand of the AO. It was a submission that the assessee being a non-resident and having filed return of income disclosing 'Nil' income and claiming the salary received by him from his employment outside India as exempt, the mistake committed by the CPC at Bangalore in respect of return of income filed by him, was a mistake which was rectifiable u/s.154. It was a submission that the orders of the AO & the Ld.CIT(A) may be reversed and the AO directed to rectify the mistake in respect of the intimation u/s.143(1).

4. In reply, the Ld.DR vehemently supported the orders of the AO & the Ld.CIT(A).

5. We have considered the rival submissions. A perusal of the return filed by the assessee clearly shows that the assessee has shown his status as non-resident. A perusal of the intimation u/s.143(1) also shows that the status of the assessee has been taken as non-resident. However, when entering the details of the salary, which has been claimed as exempt by the assessee in his return, the same has not been done correctly by the CPC. A perusal of the intimation issued also shows that even the self-assessment tax paid by the assessee has not been considered in the intimation. Thus, it clearly shows that there are mistakes apparent from the record which requires to be rectified in the intimation issued u/s.143(1). In these circumstances, in the interest of natural justice, the issues in this appeal restored to the file of the AO for verification as to

whether the assessee is a non-resident and as to whether the salary received by him is in fact from the employer outside India in respect of the employment outside India. If it is so, then the assessee's salary income received by him is not liable to tax in India.

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

Order pronounced in the Open Court on July 11, 2017, at Chennai.

Sd/-

(ए. मोहन अलंकामणी)

**(A. MOHAN ALANKAMONY)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(जॉर्ज माथन)

**(GEORGE MATHAN)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: July 11, 2017.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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