

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1334/Mds/2016

निर्धारण वर्ष / Assessment Year : 2012-13

The Assistant Commissioner of
Income Tax, Circle-1,
No.15, Gandhiji Road,
Erode – 638 001.

v. M/s Maharaja Sathyam Industries
(P) Limited,
No.119, Bahwani Road,
Erode – 638 004.

PAN : AACCS 9484 P

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S. Nataraja, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri S. Sridhar, Advocate

सुनवाई की तारीख/Date of Hearing : 06.07.2017

घोषणा की तारीख/Date of Pronouncement : 27.07.2017

आदेश /O R D E R

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

This appeal of the Revenue is directed against the order of the Commissioner of Income Tax (Appeals) – 3, Coimbatore, dated 29.02.2016 and pertains to assessment year 2012-13.

2. Shri S. Nataraja, the Ld. Departmental Representative, submitted that the assessee availed a loan of ₹15,23,50,925/- from M/s Paramasivam Palaniswamy Charitable Trust and paid interest

of ₹2,70,13,135/-. Admittedly, the loan was transferred to M/s Maharaja Industries at free of interest. According to the Ld. D.R., the assessee claimed the entire amount of ₹2,70,13,135/- as expenditure under Section 37 of the Income-tax Act, 1961 (in short 'the Act'). The Assessing Officer, after verifying the balance sheet, found no non-interest bearing funds were available with the assessee. However, according to the Ld. D.R., the CIT(Appeals) found that there was opening balance available to the extent of ₹5,94,39,110/-. According to the Ld. D.R., it is not known how the CIT(Appeals) came to know that the opening balance was available to the extent of ₹5,94,39,110/- when the Assessing Officer specifically found after referring to the balance sheet that no non-interest bearing funds were available with the assessee.

3. On the contrary, Shri S. Sridhar, the Ld.counsel for the assessee, submitted that the opening balance available with the assessee to the extent of ₹5,94,39,110/- was not considered by the Assessing Officer. Therefore, according to the Ld. counsel, the CIT(Appeals) has rightly found that to the extent of opening balance, there cannot be any disallowance of interest. On a query from the Bench when the Assessing Officer says no non-interest

bearing funds were available with the assessee after verifying the balance sheet, how the CIT(Appeals) says that there was opening balance of ₹5,94,39,110/- available with the assessee? The Ld.counsel submitted that the CIT(Appeals) after verifying the books of account, found that there was an opening balance of ₹5,94,39,110/-. On a query from the Bench, the Ld.counsel submitted that copy of balance sheet is not readily available for examination.

4. We have considered the rival submissions on either side and perused the relevant material available on record. The assessee claims that an opening balance of ₹5,94,39,110/- was available with it, therefore, to the extent, interest cannot be disallowed. However, a copy of the balance sheet is not available on record of this Tribunal. Therefore, we are unable to express any opinion regarding availability of opening balance. Therefore, the matter needs to be re-examined by the Assessing Officer after verifying the balance sheet, Profit & Loss account, etc. Accordingly, the orders of the authorities below are set aside and the entire disallowance of interest is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the matter after finding out the

availability of opening balance, non-interest bearing funds, etc. and thereafter decide the issue afresh in accordance with law, after giving a reasonable opportunity to the assessee.

5. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced on 27th July, 2017 at Chennai.

sd/-

(एस जयरामन)

(S. Jayaraman)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 27th July, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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