

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' 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.1338/Mds/2017

निर्धारण वर्ष / Assessment Year : 2012-13

M/s John Saw Mill Pvt. Ltd.,
D.No.10/1, Seevalaperi Road,
Palaymkottai, Tirunelveli – 627 002.

v. The Income Tax Officer,
Ward – 1,
Tirunelveli.

PAN : AACCCJ 5450 A

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.1339/Mds/2017

निर्धारण वर्ष / Assessment Year : 2012-13

M/s Antony Metals Pvt. Ltd.,
D. No.7/2, Seevalaperi Road,
Palaymkottai, Tirunelveli – 627 002.

v. The Income Tax Officer,
Ward – 1,
Tirunelveli.

PAN : AAJCA 2767 J

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellants by : Sh. A.S. Sriraman, Advocate

प्रत्यर्थी की ओर से/Respondent by : Smt. Ruby George, CIT

सुनवाई की तारीख/Date of Hearing : 02.08.2017

घोषणा की तारीख/Date of Pronouncement : 23.08.2017

आदेश / O R D E R

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

Both the appeals of the two independent assesseees are directed against the respective orders passed by the Principal Commissioner of Income Tax, Madurai, and pertain to assessment year 2012-13. Since common issue arises for consideration in both the appeals, we heard both the appeals together and disposing of the same by this common order.

2. Sh. A.S. Sriraman, the Ld.counsel for the assesseees, submitted that the Assessing Officer completed the assessment in both the cases after calling for all the details necessary for completing the assessment. However, the Principal Commissioner found that there was increase in the capital contributed by the shareholders. According to the Ld. counsel, when the Assessing Officer called for details and examined the same, the Principal Commissioner cannot say that there was no enquiry. At the best, it may be an inadequate enquiry and it cannot be said that the Assessing Officer did not make any enquiry. According to the Ld. counsel, inadequate enquiry would not fall within the purview of prejudicial to the interests of Revenue. Moreover, the Assessing

Officer initiated penalty under Section 271(1)(c) of the Income-tax Act, 1961 (in short 'the Act') and after necessary enquiry, the Assessing Officer dropped the penalty proceedings. Therefore, according to the Ld. counsel, the Principal Commissioner cannot direct the Assessing Officer to initiate penalty proceedings.

3. We have heard Smt. Ruby George, the Ld. Departmental Representative, also. It is an admitted fact that there was increase in the share capital of both the assesseees. Even though the assesseees claim that the Assessing Officer called for necessary details, the assessment orders in respect of both the assesseees do not reflect anything about calling for the material and application of mind of the Assessing Officer to those materials. The proceeding before the Assessing Officer is deemed to be a judicial proceeding. The order passed by the Assessing Officer is subjected to further appeal before higher forums and also subjected to reversion by the Principal Commissioner of Income-tax. Therefore, the decision taken by the Assessing Officer has to be a reasoned one. In other words, the Assessing Officer has to record his own reasoning on application of mind to the material available on record. The Assessing Officer's application of mind shall be reflected in the

assessment order. This Tribunal is of the considered opinion that the application of mind to the material available on record by the decision maker / Assessing Officer has to be reflected in the assessment order. This would avoid arbitrary decision and also repose confidence on the tax payer. Since the Assessing Officer has not recorded any reasoning with regard to increase in share capital and also for dropping the penalty proceeding, this Tribunal is of the considered opinion that the Principal Commissioner has rightly exercised her power under Section 263 of the Act. In those circumstances, this Tribunal do not find any reason to interfere with the orders of the lower authority and accordingly the same are confirmed.

4. In the result, both the appeals filed by the assessee stand dismissed.

Order pronounced on 23rd August, 2017 at Chennai.

sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 23rd August, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. Principal CIT, Madurai-2, Madurai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.