

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL  
'D' 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.1190/Mds/2017

निर्धारण वर्ष / Assessment Year : 2008-09

The Assistant Commissioner of  
Income Tax,  
Non-Corporate Circle -1(1) formerly  
known as Business Circle-1,  
Chennai - 600 034.

(अपीलार्थी/Appellant)

v. M/s Anand Transport,  
No.1, 9<sup>th</sup> Street,  
Dr. Radhakrishna Salai,  
Mylapore, Chennai - 600 004.

PAN : AAAFA 1037 D

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Ms. S. Vijayaprabha, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri SP. Palaniappan, ACA

सुनवाई की तारीख/Date of Hearing : 27.09.2017

घोषणा की तारीख/Date of Pronouncement : 13.10.2017

### **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) -2, Chennai, dated 09.02.2017 and pertains to assessment year 2008-09.

2. The first issue arises for consideration is disallowance made by the Assessing Officer under Section 14A of the Income-tax Act, 1961 (in short 'the Act').

3. Ms. S. Vijayaprabha, the Ld. Departmental Representative, submitted that the Assessing Officer disallowed a sum of ₹15,580/-. However, on appeal by the assessee, the CIT(Appeals) found that there cannot be any disallowance when the assessee has not acquired any exempted income. The Ld. D.R. further submitted that the provisions of Section 14A of the Act does not say that there cannot be any disallowance when the assessee has not earned any exempted income. Irrespective of the fact whether the assessee earned exempted income or not, disallowance under Section 14A of the Act needs to be made since it is mandatory. Therefore, according to the Ld. D.R., the CIT(Appeals) is not justified in deleting the disallowance made by the Assessing Officer.

4. On the contrary, Shri SP. Palaniappan, the Ld. representative for the assessee, submitted that the assessee has not earned any exempted income, therefore, the CIT(Appeals) by placing reliance on the judgment of Delhi High Court in Cheminvest Ltd. v. CIT in ITA 749/2014 dated 02.09.2015, deleted the addition

made by the Assessing Officer. The Ld. representative further submitted that the Madras High Court in *Redington (India) Ltd. v. Addl. CIT (2017) 77 taxmann.com 257* also has taken a similar view.

5. We have considered the rival submissions on either side and perused the relevant material available on record. It is not in dispute that the assessee has not earned any exempted income. The Madras High Court in *Redington (India) Ltd. (supra)* had an occasion to examine the same and found that when there was no exempted income, there cannot be any disallowance of expenditure. In view of this judgment of Madras High Court in *Redington (India) Ltd. (supra)*, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

6. The next issue arises for consideration is with regard to Pooja expenses to the extent of ₹1,23,105/-.

7. We have heard the Ld. D.R. and the Ld. representative for the assessee. The assessee is admittedly in the business of logistics and stevedoring. The assessee claimed a sum of ₹1,23,105/- being Pooja expenses. The Assessing Officer

disallowed the claim of the assessee on the ground that the Pooja expenses are not for the purpose of business. This Tribunal is of the considered opinion that performing Pooja is depending upon the faith of individual businessman. Irrespective of religion, everyone is performing Pooja for their own well-being and well-being of the business concern. Moreover, when the assessee performs Pooja with an intention to earn profit in its business activities, the Assessing Officer cannot step into the shoes of the businessman to say that it is not for the business. It is for the businessman to decide whether he has to do Pooja for the well-being of the business concern. Therefore, this Tribunal is of the considered opinion that the Pooja expenditure has to be necessarily for the purpose of business and well-being of business concern and its employees, therefore, the CIT(Appeals) has rightly allowed the claim of the assessee. This Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

8. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 13<sup>th</sup> October, 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 13<sup>th</sup> October, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-2, Chennai-34
4. Principal CIT-1, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.