

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

श्री अब्राहम पी. जॉर्ज, लेखासदस्य एवं  
श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष

**BEFORE SHRI ABRAHAM P.GEORGE, ACCOUNTANT MEMBER AND**  
**SHRI GEORGE MATHAN, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.339/Mds/2017

निर्धारण वर्ष /Assessment Year: 2013-14

The Dy. Commissioner of Income-  
Tax,  
Circle-1,  
Tuticorin – 628 001.

**Vs.** M/s.Raja Agencies,  
No.1 Bye Pass Road,  
Madathur,  
Tuticorin-628 008.

[PAN: AABFR 9434 Q]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

Assessee by : Mrs.S.Vidya, CA  
Department by : Mr.A. Srinivasan, JCIT  
सुनवाई की तारीख/Date of Hearing : 25.09.2017  
घोषणा की तारीख /Date of Pronouncement : 26.09.2017

**आदेश / O R D E R**

**PER GEORGE MATHAN, JUDICIAL MEMBER:**

ITA No.339/Mds/2017 is an appeal filed by the Revenue against the Order of the Commissioner of Income Tax (Appeals)-1, Madurai, in ITA No.0041/2016-17 dated 07.11.2016 for the AY 2013-14.

2. Mr.A. Srinivasan, JCIT, represented on behalf of the Revenue and Mrs.S.Vidya, CA, represented on behalf of the assessee.

3. It was submitted by the Ld.AR that Ground Nos.2.1 & 2.2 were against the action of the Ld.CIT(A) in allowing the assessee's claim for deduction of the employee's contribution towards PF & ESI paid before the due date for filing of return u/s.139(1). The Ld.DR vehemently supported the order of the AO.

4. In reply, it was submitted by the Ld.AR that the issue is squarely covered by the decision of the Hon'ble Jurisdictional High Court of Madras in the case of Industrial Security and Intelligence (India) Pvt. Ltd. in TC Nos.585 & 586/2015 dated 24.07.2015 wherein the Hon'ble Jurisdictional High Court had followed the decision of the Hon'ble Supreme Court in the case of Alom Extrusions reported in 319 ITR 306 and has held the issue in favour of the assessee in so far as if the employee's contribution towards PF & ESI is deposited after the due date as prescribed under the relevant act but before the due date of filing of the return under the Income Tax Act, no disallowance could be made in view of the provisions of Sec.43B of the Act.

5. We have considered the rival submissions. As it is noticed that the Ld.CIT(A) has followed the decision of the Hon'ble Supreme Court in the case of Alom Extrusions, respectfully following the decision of the Hon'ble Jurisdictional High Court in the case of Industrial Security and Intelligence

(India) Pvt. Ltd. referred to supra, the findings of the Ld.CIT(A) stands confirmed.

6. It was submitted by the Ld.DR that the issue raised in the Ground Nos.3.1 & 3.2 were against the action of the Ld.CIT(A) in deleting the disallowance made u/s.80IA(4) of the Act by holding that the assessee had developed and operated container freight station which is an Inland Port specified u/s.80IA(4). At the time of hearing, it was fairly agreed by both the sides that the issue is squarely covered by the decision of Co-ordinate Bench of this Tribunal in the assessee's own case for the AY 2012-13 in ITA No.215/Mds/2016 dated 01.08.2016 wherein the Co-ordinate Bench has held as follows:

*4. From the order of the learned Commissioner of Income Tax (Appeals), it is evident that he has arrived at the above decision by relying on the circular of the CBDT and the decision of the Hon'ble Delhi High Court cited supra. Further, the assessee has also produced before us the prescribed Certificate from the Port Trust dated 28.03.2016. In these circumstances, we do not find it necessary to interfere with the order of the learned Commissioner of Income Tax(Appeals).*

7. It was submitted by the Ld.DR that the order of the Co-ordinate Bench has not reached its finality.

8. We have considered the rival submissions. As it is noticed that the issue in the Revenue appeal is squarely covered by the decision of the Co-ordinate Bench of this Tribunal in the assessee's own case, respectfully following the decision of Co-ordinate Bench in the assessee's own case, the findings of the Ld.CIT(A) stands confirmed.

9. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced in the Open Court on September 26, 2017, at Chennai.

Sd/-

(अब्राहम पी. जॉर्ज)

(ABRAHAM P GEORGE,)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai,

दिनांक/Dated: September 26, 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