

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./ I.T.A. No. 267/Mds/2017

निर्धारण वर्ष/Assessment Year : 2013-14

The Income Tax Officer,  
121, Adams Plasa,  
60 feet Road, P.N. Road,  
TIRUPUR – 641 602.

Shri M. Karthikeyan,  
Vs. Prop: M/s. Sun Yarn,  
175/50, Kongu Main Road,  
Near Achi Electronics,  
Tirupur – 641 607.

**[PAN: BDTPK 1630B]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Ashsh Tripati, JCIT

प्रत्यर्थी की ओर से/Respondent by

: Shri S. Sridhar, Advocate

सुनवाई की तारीख/Date of Hearing

: 06.06.2017

घोषणा की तारीख/Date of Pronouncement

: 09.06.2017

**आदेश / O R D E R**

**PER S. JAYARAMAN, ACCOUNTANT MEMBER:**

This is an appeal filed by the Revenue against the order of the Commissioner of Income Tax (Appeals)-3, Coimbatore in ITA No. 34/16-17 dated 25.11.2016.

2. Shri M. Karthikeyan, the assessee, an individual and Proprietor of M/s. Sun Yarn, trader in Yarn and Knitted Fabrics. In the assessment made for assessment year 2013-14, the AO obtained information u/s. 133(6) from certain parties and other material, verified them with books of account of the assessee etc., and found that Rs. 2,72,14,085/-, the liabilities in the balance sheet have ceased to exist and hence made an addition of Rs. 2,72,14,085/-. Further, the Assessing Officer found that the assessee has purchased a house property at 227 & 228 of Vijaya Gardens during the period relevant to this assessment year at Rs. 33 lakhs which was not recorded in the books of account and hence he treated Rs. 33 lakhs as unaccounted investment and assessed the same. Aggrieved, the assessee filed an appeal before CIT(A)-3, Coimbatore. Before the CIT(A), the assessee contended that all the liabilities are from entities with whom the assessee had regular trading transactions. The AO merely relied on the averments of other parties without verifying the veracity of the same in the books of account of the assessee, which are supported by evidence in the form of invoices raised by other parties and the returns filed the assessee before the sales tax/value added tax authorities. The assessee furnished copies of invoices and the entries shown in the return submitted to the commercial tax authorities before the CIT(A) and contended that if major portion of purchases are disallowed, how the sales made by the assessee can be accepted by the AO etc. The CIT(A) without giving any opportunity to the Assessing Officer examined them and deleted the addition

made in the case of M/s. Win Traders, M/s. TRK Textile Pvt. Ltd., M/s. Pandarinadhan Textile Mills, Shri Deepika International and M/s. S.L. Tex at Rs. 17,85,920/-, Rs. 20,75,022/-, Rs. 7,31,525/-, Rs. 30,39,160/- and Rs. 1,48,55,480/- respectively, aggregating to Rs. 2,24,87,107/-. Further, the CIT(A) deleted the addition of Rs. 33 lakhs as unexplained investment stating that the investment in the immovable property was made on 30.03.2012 i.e., during the earlier assessment year i.e. in assessment year 2012-13 and not in this assessment year i.e. in assessment year 2013-14.

3. Aggrieved, the Revenue filed this appeal on the ground that whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is justified; in deleting the addition of Rs. 2,24,87,107/- without giving an opportunity to AO under Rule 46A of the I.T. Rules by calling for a remand report in view of the additional evidences produced by the assessee during the appellate proceedings, such as sales invoice raised in the name of parties and entries submitted to the commercial tax authorities and in deleting the addition of Rs. 33 lakhs, when it is seen from the assessment records that the property transaction was made by the assessee on 28.08.2012 and hence, it is income for assessment year 2013-14.

4. We heard the rival submissions and gone through the CIT(A) order. It is clear that the CIT(A) has not given an opportunity to the AO under Rule

46A of the I.T. Rules and hence, we set aside this case to the AO, who shall after examining the relevant material and after giving due opportunity to the assessee shall pass a speaking order on the above issues.

5. In the result, the Revenue's appeal is allowed.

Order pronounced on Friday, the 9<sup>th</sup> day of June, 2017 at Chennai.

**Sd/-**

(एन.आर.एस. गणेशन)

**(N.R.S. GANESAN)**

**न्यायिक सदस्य/Judicial Member**

**Sd/-**

(एस जयरामन)

**(S. JAYARAMAN)**

**लेखा सदस्य/Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated: 9<sup>th</sup> June, 2017

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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