

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

श्री चंद्र पूजारी, लेखा सदस्य एवं श्रीजी. पवन कुमार, न्यायिक सदस्यकेसमक्ष
BEFORE SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER AND
SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No.457/Mds/2017

निर्धारण वर्ष /Assessment year : 2010-2011.

Smt. Meena Sakariya,
No.45, (Old No.21)
Halls Road,
Kilpauk, Chennai 600 010.

Vs. The Assistant Commissioner
of Income Tax,
Non Corp. Circle,
Chennai 600 006.

[PAN AASPS 7154D]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri. G. Baskar, Advocate
प्रत्यर्थी की ओर से /Respondent by : Shri. Palanichamy, JCIT.

सुनवाई की तारीख/Date of Hearing : 11-10-2017
घोषणा की तारीख /Date of Pronouncement : 12-10-2017

आदेश / ORDER

PER ABRAHAM P. GEORGE, ACCOUNTANT MEMBER:

In this appeal filed by the assessee, which is directed against an order dated 15.12.2016 of the Id. Commissioner of Income Tax (Appeals)-5, Chennai, is aggrieved on an addition of Rs.3,78,456/-

made by the Id. Assessing Officer, which was confirmed by the Id. Commissioner of Income Tax (Appeals).

2. Facts apropos are that assessee engaged in the business of finance and trading in steel pipes had filed her return of income for the impugned assessment year declaring an income of Rs.1,12,24,800/-. There was a survey operation u/s. 133A of the Income Tax Act, 1961 (in short "the Act") conducted in the premises of the assessee on 24.03.2010. As per the Id. Assessing Officer there were certain differences in sales and purchases found during the course of such survey. According to the Id. Assessing Officer, in the Trading Account prepared on the date of survey, the total sales shown by the assessee was Rs.30,46,71,196/- against which assessee had in a reconciliation filed, given a figure of Rs.30,50,49,652/-. According to him, there was a difference of Rs.3,78,456/- which was considered as unaccounted sales. An addition of ₹3,78,456/- was made.

3. Aggrieved, assessee moved in appeal before the Id. Commissioner of Income Tax (Appeals). Claim of the assessee before the Id. Commissioner of Income Tax (Appeals) was that figures mentioned by the Id. Assessing Officer did not relate to sales.

According to him, the sales figure submitted by the assessee at Rs. 30,50,49,652/- was more than figure of Rs.30,46,71,196/- found on the date of survey. Contention of the assessee was that there was no scope for addition on suppression of sales since figure submitted by the assessee in reconciliation was higher. As per the assessee, the difference of Rs. 3,78,456/- related to purchases. Assessee also gave a list of purchase bills, reconciling such difference. Ld. Commissioner of Income Tax (Appeals) sought a remand report from the Id. Assessing Officer. In the said remand report Id. Assessing Officer stated has under:-

"1. In the assessment order the difference of sales on the day of survey was ₹30,46,71,196/- as per trading accounting. However, a reconciliation provided shows sales at ₹30,49,652/-.

2. In view of the above, the disallowance made maybe sustained".

When this was put to the assessee, contention of the assessee was that Id. Assessing Officer had not dealt with its submissions at all.

4. Ld. Commissioner of Income Tax (Appeals) after considering the remand report and the contentions of the assessee held that the difference added by the Id. Assessing Officer pertained to sales whereas assessee was giving the reconciliation for its purchases. He thus confirmed the addition made by the Id. Assessing Officer.

5. Now before us, Id. Authorised Representative submitted that Id. Assessing Officer as well as Id. Commissioner of Income Tax (Appeals) had failed to appreciate that difference was on account of purchases and not on account of sales. According to him, assessee had given billwise reconciliation of purchases and there was no scope for any addition.

6. Per contra, Id. Departmental Representative strongly supported the orders of the authorities below.

7. We have considered the rival contentions and perused the orders of the authorities below. Id. Assessing Officer had considered sales as on the date of survey reflected in Trading Account of the assessee at ₹30,46,71,196/-. Assessee had submitted a reconciliation for the sales which as per the Id. Assessing Officer reflected a sum of ₹30,50,49,652/-. Contention of the assessee before the Id. Commissioner of Income Tax (Appeals) was that the difference of ₹3,78,456/- was on account of purchase, which stood reconciled and not on account of sales. In our opinion, the question whether the difference was on account of sales or purchases cannot be clearly discerned from available records. The question can be resolved only after verifying the books of accounts and other relevant documents relating to purchase and sales. We are of the opinion that the issue

requires a fresh look by the Id. Assessing Officer for ascertaining whether the difference was on account of sales or on purchases and whether it stood reconciled. Therefore, we set aside the orders of the lower authorities and remit the issue back to the file of the Id. Assessing Officer for consideration afresh.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on Thursday, the 12th day of October, 2017, at Chennai.

Sd/-
जॉर्ज माथन)
(GEORGE MATHAN)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-
(अब्राहम पी. जॉर्ज)
(ABRAHAM P. GEORGE)
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai

दिनांक/Dated: 12th October, 2017.

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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