

आय अधकरण, “सी” ढयायपीठ, चेन्नई
PELLATE TRIBUNAL ‘C’ BENCH, CHENNAI

श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री धुवु आर.एल रेडी, ढयायक सदस्य के समु
Before Shri A. Mohan Alankamony, Accountant Member &
Shri Duvvuru RL Reddy, Judicial Member

आयकर अपील सं./I.T.A.No.412/Mds/2017

ढनधाक्षण वष/Assessment Year:2006-07

M/s. Goldquest International Pvt. Ltd.,
The Rain Tree Place, BqWing, 9th
Floor, No. 7, McNichols Road, Chetpet,
Chennai 600 031.
[PAN: AABCG3717C]

Vs. The Income Tax Officer,
Company Circle II (1),
Chennai 600 034.

(अपीलाथ /Appellant)

(ढनढयथ/Respondent)

आयकर अपील सं./I.T.A.No.780/Mds/2017

ढनधाक्षण वष/Assessment Year:2006-07

The Income Tax Officer,
Corporate Ward 2(2),
Chennai - 34.

Vs. M/s. Goldquest International Pvt. Ltd.,
The Rain Tree Place, BqWing, 9th Floor,
No. 7, McNichols Road, Chetpet,
Chennai 600 031.

(अपीलाथ /Appellant)

(ढनढयथ/Respondent)

Assessee by : Shri G. Seetharaman, C.A.

Department by : Shri Asish Tripathi, JCIT

सुनवाई कल ताराख/ Date of hearing : 28.08.2017

घोषणा कल ताराख /Date of Pronouncement : 31.08.2017

आदेश / O R D E R

PER DUVVURU RL REDDY, JUDICIAL MEMBER:

These cross appeals filed by the assessee and the Revenue are directed against the order of the Id. Commissioner of Income Tax (Appeals) -

relevant to the assessment year 2006-07. The only effective ground raised in the appeal of the assessee is that the Id. CIT(A) erred in confirming the disallowance of ₹.7,26,987/- made under section 40(a)(ia) of the Income Tax Act, 1961 [the Act+ in short]. In the Department's appeal, the Revenue has challenged the deletion of disallowance made under section 43B of the Act, allowing the long term capital gains and short term capital gains and also allowing the interest claimed while deleting the disallowance made under section 40(a)(ia) of the Act.

2. Brief facts of the case are that the assessee is carrying on the business in purchase and sale of pneumatic coins, which have a heritage value. The assessee filed its return of income on 30.03.2007 admitting an income of ₹.16,80,940/-. The return filed by the assessee was selected for scrutiny and notice under section 143(2) of the Act was issued on 24.10.2007. In response thereto, the assessee sought for adjournment seeking a month's time. The case was reposted for hearing on 25.02.2008 and notice was served on 31.01.2008. Enclosing power to represent the case, the assessee sought a fortnight's time. Thereafter, a notice under section 142(1) of the Act was issued on 16.05.2008 calling certain details/evidences and posted the case for hearing on 23.05.2008. There was no response. Therefore, one more notice under section 142(1) of the Act was issued on 12.09.2008

08. The assessee filed a letter on 26.09.2008 seeking time. Another notice was issued on 17.10.2008 posting the case on 24.10.2008 calling for the details of assets and liabilities whether included in the accounts or not. Again, there was no response from assessee, but filed a letter seeking 10 days time. From the above, the Assessing Officer was of the opinion that the assessee is not interested in discharging the obligation cast on it under the Act. Since there was no proper response from assessee's side despite sufficient opportunities were given, the Assessing Officer proceeded to complete the assessment under section 144 of the Act on the basis of materials available on record and determined the taxable income of the assessee at ₹ 1,87,51,268/- after making various additions.

3. The assessee carried the matter in appeal before the Id. CIT(A). During the course of appellate proceedings, the assessee filed detailed submissions along with evidences with regard to various additions/disallowances made in the assessment order. The submissions of the assessee along with additional evidences were sent to the Assessing Officer on 04.01.2013 seeking remand report. However, till the date of passing appellate order, the Id. CIT(A) has not received any remand report from the Assessing Officer. Thus, the Id. CIT(A) proceeded to adjudicate the issues on the basis of evidences filed by the assessee and partly allowed the appeal filed by the assessee.

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the assessee is in appeal against the confirmation of the disallowance of .7,26,987/- made under section 40(a)(ia) of the Act, whereas, the Revenue has challenged the deletion of disallowance made under section 43B of the Act, allowing the long term capital gains and short term capital gains and also allowing the interest claimed while deleting the disallowance made under section 40(a)(ia) of the Act.

5. We have heard both sides, perused the materials available on record and gone through the orders of authorities below. Despite sufficient opportunities were given to the assessee, the assessee neither appeared before the Assessing Officer nor filed complete details along with written submission for completing the assessment. Hence, the Assessing Officer completed the assessment under section 144 of the Act on the basis of materials available on record. During appellate proceedings, the evidences filed by the assessee were sent to the Assessing Officer seeking remand report. But, the Assessing Officer has not submitted the remand report after conducting the remand proceedings. Hence the Id. CIT(A) partly allowed the appeal filed by the assessee after considering the evidences filed by the assessee without remand report of the Assessing Officer. Before us, both the parties have agreed that the entire issues may be remitted back to the file of the Assessing Officer for fresh consideration. Under the above facts

vide the order of the Id. CIT(A) and remit the matters back to the file of the Assessing Officer to decide the issues afresh after considering and verifying the details/evidences as may be filed by the assessee. The assessee is also directed to furnish complete particulars before the Assessing Officer and cooperate with the Department without seeking adjournment other than for just cause. Accordingly, both the appeals filed by the assessee as well as Revenue are allowed for statistical purposes.

6. In the result, both the appeals filed by the assessee as well as Revenue are allowed for statistical purposes.

Order pronounced on the 31st August, 2017 at Chennai.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, the 31.08.2017

Vm/-

आदेश क० प्रतिलिपि आदेश/ Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. वित्तीय प्रशासक/DR & 6. गार्डफाइल/GF.