

आयकर अपीलीय अधिकरण, C/'SMC' न्यायपीठ, चेन्नई ।

IN THE INCOME TAX APPELLATE TRIBUNAL  
C/"SMC" BENCH, CHENNAI

श्री. चंद्र पूजारी लेखा सदस्य, के समक्ष ।

BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER

**I.T.A.No.2009/Mds./2017**  
(Assessment Year : 2013-14)

**Shri R.Gajan Kumar chawda,**  
Flat No.F.D.No.2/280,  
Sricharan apartments,  
Karpagambal Nagar First Street,  
Kottivakkam, Chennai 600 041  
**PAN ABDPC 0454 G**  
(अपीलार्थी /Appellant)

**Vs.** The Income Tax Officer,  
International Taxation-1(1),  
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Mr.A.s.Sriraman,Advocate  
प्रत्यर्थी की ओर से/Respondent by : Mr.B.Sagadevan, JCIT, D.R

सुनवाई की तारीख/ Date of hearing : 02.11.2017  
घोषणा की तारीख /Date of Pronouncement : 02.11.2017

**आदेश / O R D E R**

**PER CHANDRA POOJARI, ACCOUNTANT MEMBER:**

This appeal is filed by the assessee, aggrieved by the order of the Learned Commissioner of Income Tax(A)-16, Chennai dated 15.05.2017 pertaining to assessment year 2013-14.

2. The assessee raised the following grounds for adjudication.
  1. The order of The Commissioner of Income Tax (Appeals) 16, Chennai dated 15.05.2017 in LT.A.No.45!CIT(A)-16/2013-14 for the above mentioned Assessment Year is contrary to law, facts, and in the circumstances of the case.
  2. The CIT (Appeals) erred in sustaining the assessment of salary income earned in the computation of taxable total income without assigning proper reasons and justification.
  3. The CIT (Appeals) failed to appreciate that the assessment of salary income in the hands of the appellant was wrong, erroneous, unjustified, incorrect and not sustainable in law.
  4. The CIT (Appeals) failed to appreciate that having taken on record the evidence establishing the source for the salary as well as the evidence establishing the status of the appellant as non-resident, the assessment of the salary income was wholly unjustified and bad in law.
  5. The CIT (Appeals) failed to appreciate that there was no proper opportunity given before passing of the impugned order and any order passed in violation of the principles natural justice would be nullity in law.
3. The brief facts of the case are that the assessee filed return of income for assessment year 2013-14 declaring 'Nil' income and claimed a refund of ₹9,55,420/-. Subsequently, the case was selected for scrutiny. The AO disallowed an amount of ₹36,58,064/-,

the exemption claimed for the salary income as no proof was produced by the assessee that he was in foreign/international waters for the specified period during F.Y 2012-13. The AO assessed the income at ₹34,08,640/- by adding ₹36,58,064/- as salary income. Aggrieved by the action of the Id. Assessing Officer, the assessee carried the appeal before the Ld.CIT(A).

3. During the first appellate proceedings, the assessee produced a copy of passport and a copy of advice from master for the payments in dollars. The Ld.CIT(A) observed that it cannot be considered as a sufficient proof satisfying the condition that the assessee was the employee of M/s.Essar shipping Ltd. and the assessee was in international water during the period 01.04.2012 to 31.03.2013. Accordingly, the Ld.CIT(A) rejected the claim of assessee.

4. I have heard both the parties and perused the material on record. In my opinion, it is appropriate to remit the issue to the file of AO in order to examine the certificate from employer i.e. M/s.Essar Shipping Limited stating that the assessee was the employee and was in international water during the period from 01.04.2012 to

31.03.2013. If the assessee produces these proofs by way of certificate, the AO has to examine this and decide in accordance with law.

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

Order pronounced on 02<sup>nd</sup> November, 2017.

Sd/-  
(चंद्र पूजारी)  
(CHANDRA POOJARI)  
लेखा सदस्य /ACCOUNTANT MEMBER

Chennai,  
Dated the 2<sup>nd</sup> November, 2017.

K s sundaram.

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        |