

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.459/Mds/2016

निर्धारण वर्ष / Assessment Year : 2008-09

M/s Sri Chakra Merchandising
(P) Ltd.,
No.723, GNT Road, Kottakarai,
Gummudi Poondi,
Chennai – 601 201.

v. The Deputy Commissioner of
Income Tax,
Corporate Circle – 6(2),
Chennai - 600 034.

PAN : AAJCS 3451 C
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri G. Baskar, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri AR.V. Sreenivasan, JCIT

सुनवाई की तारीख/Date of Hearing : 20.12.2017

घोषणा की तारीख/Date of Pronouncement : 28.12.2017

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) – 15, Chennai, dated 17.03.2015 and pertains to assessment year 2008-09.

2. Shri G. Baskar, the Ld.counsel for the assessee, submitted that three issues arise for consideration in this appeal. The first issue is with regard to loss returned by the assessee to the extent of ₹25,57,57,954/-. The second issue is with regard to addition of ₹7,68,35,802/- on closing stock. The third issue is with regard to addition of ₹13 Crores on account of additional share capital.

3. The Ld.counsel for the assessee submitted that the CIT(Appeals) has enhanced the assessed income from ₹8,11,24,410/- to ₹12,95,18,768/- without giving any notice for enhancement. On filing additional evidence, the Ld.counsel submitted that these documents could not be produced before the Assessing Officer at the time of assessment. According to the Ld. counsel, proper opportunity was not given to the assessee by the Assessing Officer. Moreover, the CIT(Appeals) without giving any opportunity by way of a statutory notice, enhanced the assessment. Therefore, according to the Ld. counsel, there is a violation of principles of natural justice, hence, the matter may be remitted back to the file of the Assessing Officer for reconsideration.

4. On the contrary, Shri AR.V. Sreenivasan, the Ld. Departmental Representative, very fairly submitted that since the

assessee has filed additional evidence before this Tribunal, the matter needs to be re-examined by the Assessing Officer, therefore, he may not have any objection in case the matter is remitted back to the file of the Assessing Officer.

5. We have considered the submissions of Ld.counsel for the assessee and the Ld. Departmental Representative and perused the relevant material available on record. Admittedly, the CIT(Appeals) enhanced the assessed income to ₹12,95,18,768/- from ₹8,11,24,410/- without issuing any notice for enhancement. Under the scheme of Income-tax Act, the power of the CIT(Appeals) is coterminous with that of the Assessing Officer. Apart from that, the CIT(Appeals) is also empowered to enhance the assessment. However, the CIT(Appeals) is expected to give notice of enhancement before doing so. In this case, the CIT(Appeals) enhanced the assessment without giving notice, therefore, there is a clear violation of natural justice as contended by the Ld.counsel for the assessee.

6. Moreover, the assessee has also filed additional evidence before this Tribunal. These documents have to be verified by the lower authorities. This Tribunal is of the considered opinion that the

Assessing Officer being the original authority, may be in a better position to appreciate the additional evidence filed by the assessee. Therefore, the matter needs to be re-examined by the Assessing Officer. Accordingly, the orders of both the authorities below are set aside and the entire issue raised by the assessee is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the matter in the light of the additional evidence filed by the assessee and decide the issue afresh in accordance with law, after giving a reasonable opportunity to the assessee.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 28th December, 2017 at Chennai.

sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 28th December, 2017.

Kri.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त (अपील)/CIT(A)-15, Chennai-34

4. CIT-6, Chennai-34

5. विभागीय प्रतिनिधि/DR

6. गार्ड फाईल/GF.