

आयकर अपीलीय अधिकरण, A/“SMC” न्यायपीठ, चेन्नई ।

IN THE INCOME TAX APPELLATE TRIBUNAL
A/“SMC” BENCH, CHENNAI

श्री. चंद्र पूजारी लेखा सदस्य, के समक्ष ।

BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER

I.T.A.No.65/Mds./2016

(Assessment Year : 2006-07)

M/s.R.R.Associates,
5/263,Kamaraj Nagar,
Vadachennimalai(P.O),
Attur 636 121.

PAN AAHER 3257 R

(अपीलार्थी /Appellant)

Vs. The Income Tax officer,
Ward II(3),
Salem.

(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

: 09.11.2017

घोषणा की तारीख /Date of Pronouncement

: 09.11.2017

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), Salem dated 24.09.2014 pertaining to assessment year 2006-07.

2. The main grievance of the assessee is that Ld.CIT(A) erred in confirming the assessment of income at 5% of gross contract

receipts , though the exparte assessment order was passed u/s.144 of the Act.

3. The brief facts of the case are that the assessee filed its return of income u/s.139(1) of the Act on 31.01.2014 declaring the income of ₹1,41,010/- for assessment year 2006-07. Notice u/s.143(2) was issued on 11.10.2007. None appeared for the assessee. Later, the Id. Assessing Officer issued notice calling the appearance of the assessee on several dates, none appeared for the assessee. The Id. Assessing Officer having no option since the assessment was getting time barred, estimated the income of assessee @ 5% of the gross receipt in the absence of any books of accounts, vouchers, bills etc. The Id. Assessing Officer has not given the deduction towards interest on capital and salary to partners and worked out the taxable income at ₹10,42,040/-. Aggrieved by the order of Id. Assessing Officer, the assessee carried the appeal before the Ld.CIT(A). The case was posted for hearing by the Ld.CIT(A) on 20.04.2012, 18.10.2012, 18.09.2013, 17.12.2013, 22.04.2014, 15.07.2014 and finally on 18.09.2014. None appeared on behalf of the assessee. The Ld.CIT(A) confirmed the order of Id. Assessing Officer observing that

the appeal is dismissed for non-prosecution. Against the order of Ld.CIT(A), now the assessee is in appeal before us.

5. At the outset, it is noticed that assessee's appeal has been filed late by 17 days. Condonation petition has been filed stating that the appeal papers handed over to C.A for filing the appeal before this Tribunal. Since the Id.A.R, Mr.Illangovan, C.A fell in sick in the month of October,2014, thus, there was a short delay of 17 days in filing this appeal. This fact is also confirmed by Mr.Illangovan and Mr.Sivakumar, C.As by way of his letter dated 7.11.2017, where reasons shown are justified and hence, delay is condoned and appeal admitted for adjudication.

6. I have heard both the parties and perused the material on record. Coming to the exparte order passed by the lower authorities, it was stated by the Id.A.R that the assessee had failed to appear before the lower authorities on the reason of medical urgency of one of the partners and made an undertaking before the Bench that if one more opportunity given to assessee to present the case before the Id. Assessing Officer, the assessee firm would co-operate with the AO and complete the assessment since the assessment order as well

as order of the CIT(Appeals) is passed exparte order. In my opinion, in the interest of justice, it is appropriate to remit the issue to the file of Id. Assessing Officer to complete the assessment as per the books of accounts to be produced by the assessee. I also direct the assessee to produce relevant books of accounts before the Id. Assessing Officer and to co-operate with the AO so as to complete the assessment . With this observation, I remit this issue to the file of Id. Assessing Officer for fresh consideration.

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

Order pronounced on 09th November, 2017.

Sd/-

(चंद्र पूजारी)

(CHANDRA POOJARI)

लेखा सदस्य /ACCOUNTANT MEMBER

Chennai,

Dated the 09th 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 |