

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'D' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2447/Mds/2017

निर्धारण वर्ष / Assessment Year : 2013-14

Shri Sampath Raj Karanraj,  
Prop: Raj Bikes,  
No.64, Madhavaram High Road,  
Moolakadai, Chennai - 600 118.

v. The Income Tax Officer,  
Non Corporate Ward 5(1),  
Chennai.

PAN : AQYPK 9636 Q

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri K. Ravi, Advocate

प्रत्यर्थी की ओर से/Respondent by : Smt. Ruby George, CIT

सुनवाई की तारीख/Date of Hearing : 28.12.2017

घोषणा की तारीख/Date of Pronouncement : 05.01.2018

### **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)-5, Chennai, dated 02.08.2017 and pertains to assessment year 2013-14.

2. There was a delay of one day in filing this appeal by the assessee. The assessee has filed a petition for condonation of delay. We have heard the Ld.counsel for the assessee and the Ld.

D.R. We find that there was sufficient cause for not filing the appeal before the stipulated time. Therefore, we condone the delay and admit the appeal.

3. The first issue arises for consideration is with regard to disallowance made by the Assessing Officer under Section 40(a)(ia) of the Income-tax Act, 1961 (in short 'the Act') for non-deduction of tax at source.

4. Shri K. Ravi, the Ld.counsel for the assessee, submitted that the assessee paid interest to M/s Sundaram PNB Paribas Home Finance Ltd. The Assessing Officer disallowed the interest payment under Section 40(a)(ia) of the Act. According to the Ld. counsel, the recipient, namely, M/s Sundaram PNB Paribas Home Finance Ltd. disclosed the interest income and paid taxes, therefore, there cannot be any disallowance in view of the second proviso to Section 40(a)(ia) of the Act.

5. We heard Smt. Ruby George, the Ld. Departmental Representative also. Since the assessee claims that the recipient, namely, M/s Sundaram PNB Paribas Home Finance Ltd. paid the taxes on the interest income received from the assessee, this

Tribunal is of the considered opinion that the matter needs re-examination by the Assessing Officer. Accordingly, orders of both the authorities below are set aside and the issue of disallowance made under Section 40(a)(ia) of the Act is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the matter and find out whether the recipient, namely, M/s Sundaram PNB Paribas Home Finance Ltd. has disclosed the interest income and paid taxes, and thereafter decide the issue afresh in accordance with law, after giving a reasonable opportunity to the assessee.

6. The next issue arises for consideration is with regard to ad-hoc disallowance of expenditure.

7. Shri K. Ravi, the Ld.counsel for the assessee submitted that the Assessing Officer made certain disallowances in respect of salary, staff welfare and conveyance. According to the Ld. counsel, the Assessing Officer disallowed 15% of salary expenses on the ground that the bills / vouchers furnished by the assessee are not in order. According to the Ld. counsel, payment of salary is not in dispute, therefore, there cannot be any disallowance at all.

8. On the contrary, Smt. Ruby George, the Ld. Departmental Representative, submitted that it is for the assessee to file necessary bills and vouchers for establishing the payment of salary. Since proper bills and vouchers were not furnished, the Assessing Officer disallowed 15% of salary expenses which was rightly confirmed by the CIT(Appeals).

9. We have considered the rival submissions on either side and perused the relevant material available on record. The Assessing Officer disallowed 15% of the salary claim on the ground that the assessee has not furnished bills and vouchers properly. No doubt, it is for the assessee to maintain bills and vouchers for the expenses incurred. The CIT(Appeals) confirmed the order of the Assessing Officer for the same reason. This Tribunal is of the considered opinion that when the assessee paid salary which is not in dispute, a disallowance of 10% of total salary paid would meet the ends of justice. Accordingly, the orders of the authorities below are modified. The Assessing Officer is directed to disallow only 10% of salary expenses claimed by the assessee.

10. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced on 5<sup>th</sup> January, 2018 at Chennai.

sd/-

(एस जयरामन)

(S. Jayaraman)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 5<sup>th</sup> January, 2018.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-5, Chennai-34
4. Principal CIT-9, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.