

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' (SMC) BENCH : CHENNAI

श्री अब्राहम पी. जॉर्ज, लेखा सदस्य के समक्ष।

[BEFORE SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER]

आयकर अपील सं./I.T.A. No.3259/Mds/2016

निर्धारण वर्ष /Assessment year : 2007-2008

Smt. Swati Gupta,  
140, Flat No.27, II Floor  
Luz Ginza Shanti Vihar Complex,  
Royapettah High Road,  
Chennai 600 014.

**Vs.** The Income Tax Officer,  
Non Corporate Ward 2(4)  
Chennai.

[PAN AHIPG 2509D]

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by : Shri. M. Narayanan, I.T. Practitioner  
प्रत्यर्थी की ओर से /Respondent by : Shri. B. Sagadevan, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing : 02-01-2018

घोषणा की तारीख /Date of Pronouncement : 04-01-2018

**आदेश / ORDER**

In this appeal filed by the assessee, it is aggrieved that Id. Commissioner of Income Tax (Appeals)-2, Chennai through his order dated 22.09.2016 confirmed an addition of ₹12,32,370/- made by the Id. Assessing Officer as unexplained cash credit.

2. Facts apropos are that assessee in the Balance Sheet filed by her alongwith return of income had shown one M/s. Ayyappa Real

Estate (P) Ltd as a loan creditor with balance of ₹12,32,370/-. Ld. Assessing Officer verified the Balance Sheet and tax audit report of M/s. Ayyappa Real Estate (P) Ltd and found that it did not reflect any loan/advance to the assessee. Assessee was put on notice. Reply of the assessee was as under:-

*"In reply to query regarding difference of Rs. 12,32,370 between the credit balance shown in Swan Gupta's books of accounts as on 31.03.2007 in the name of Ayyappa Real Estate Private Limited and Swati Gupta's account in the books of Ayyappa Real Estate Private Limited the assessee submit as under.*

*On instruction of Management the sum of Rs.6,16,185/- due from Swati Gupta was transferred to Ayyappa Roller Flour Mills Account by Ayyappa Real Estate (P) Limited but the Accountant handling Swan Gupta's account instead of debiting has credited Ayyappa Real Estate (P) Limited's account and debited to Ayyappa Roller Flour Mills Limited in her books.*

*On verifying inter group balances, Swati Gupta noticed the differences in balances and rectified the entry in Assessment year 2008-09.As the difference of Rs.12,32,370/- was rectified in next assessment year so you are requested to drop the proposal of additions in 2007-08 and oblige by stating difference in balances in between the two concerns".*

However, Id. Assessing Officer did not accept the above reply. According to him, there were no supporting evidence filed by the assessee for substantiating its contention. Further, according to him, books of the assessee reflected a sum of ₹12,32,370/- as due to M/s. Ayyappa Real Estate (P) Ltd whereas no corresponding entry

appeared in the accounts of the said company. An addition of ₹12,32,370/- was made as unexplained cash credit.

**3.** Assessee's appeal before the Id. Commissioner of Income Tax (Appeals) did not meet with any success. According to Id. Commissioner of Income Tax (Appeals) just because assessee had passed a rectification entry in the subsequent year, would not convert an unexplained credit to an explained one. He confirmed the order of the Id. Assessing Officer.

**4.** Now before me, Id. Authorised Representative strongly assailing the order of the Id. Commissioner of Income Tax (Appeals) submitted that there were two concerns namely M/s. Ayyappa Real Estate (P) Ltd and M/s. Ayyappa Roller Flour Mills both belonging to the same group of creditors. According to him, opening credit balance in the account of M/s. Ayyappa Real Estate (P) Ltd in the books of the assessee on 01.04.2006 was ₹6,16,185/-. Contention of the Id. Authorised Representative there was a mutual decision to consolidate the balances and the sum of ₹6,16,185/- was decided to be transferred to the account of M/s. Ayyappa Roller Flour Mills. However, as per Id. Authorised Representative, accountant of the assessee passed a wrong entry. Instead of debiting the account of M/s. Ayyappa Real Estate (P) Ltd, he credited the said account with ₹6,16,185/-,

thereby giving rise to a closing credit balance of ₹12,32,370/-. According to him, there were no dues to M/s. Ayyappa Real Estate (P) Ltd. Contention of the Id. Authorised Representative was that assessee ought not have been taxed for a wrong journal entry.

**5.** Per contra, Id. Departmental Representative strongly supported the orders of the authorities below.

**6.** I have considered the rival contentions and perused the orders of the authorities below. Contention of the assessee is that the sum of ₹6,16,185/- appearing as credit balance in the account of M/s. Ayyappa Real Estate (P) Ltd as on 01.04.2006, was decided to be transferred to the account of M/s. Ayyappa Roller Flour Mills. As per the assessee, journal entry passed was vice versa resulting in a credit balance of ₹12,32,370/- in the account of M/s. Ayyappa Real Estate (P) Ltd. In my opinion, though Id. Assessing Officer verified the accounts of M/s. Ayyappa Real Estate (P) Ltd, he did not verify the books of accounts of M/s. Ayyappa Roller Flour Mills. There is much strength in the argument of the Id. Authorised Representative that there can be no real income arising from a wrong journal entry. In my opinion, the Id. Assessing Officer should have considered the aggregate balance in assessee's name in the books of both M/s. Ayyappa Real Estate (P) Ltd

and M/s. Ayyappa Roller Flour Mills and thereafter compared it with the balance in the name of these concerns in the books of the assessee. I am of the opinion that whether journal entry passed by the assessee was wrong and whether balance in assessee's name in the two concerns namely M/s. Ayyappa Real Estate (P) Ltd and M/s. Ayyappa Roller Flour Mills tallied with the balance shown in the name of the concerns, in the books of the assessee, atleast in the aggregate, requires a revisit by the Id. Assessing Officer. I therefore set aside the orders of the lower authorities and remit the issue back to the file of the Assessing Officer for consideration afresh in accordance with law.

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

Order pronounced on Thursday, the 4th day of January, 2018, at Chennai.

Sd/-

(अब्राहम पी. जॉर्ज)

**(ABRAHAM P. GEORGE)**

**लेखा सदस्य/ACCOUNTANT MEMBER**

चेन्नई/Chennai

दिनांक/Dated: 4th January, 2018

KV

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        |