

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
'B' 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.1408/Mds/2017

निर्धारण वर्ष / Assessment Year : 2011-12

M/s Vestas Wind Technology India
Pvt. Ltd.,
298, Rajiv Gandhi Salai,
Sholinganallur, Chennai - 600 119.

v. The Principal Commissioner of
Income Tax – 3,
Chennai - 600 034.

PAN : AAACA 9274 F
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri N.V. Balaji, Advocate

प्रत्यर्थी की ओर से/Respondent by : Sh.D. Prabhu Mukunth Arun Kumar,
Jr. Standing Counsel

सुनवाई की तारीख/Date of Hearing : 11.01.2018

घोषणा की तारीख/Date of Pronouncement : 18.01.2018

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 Principal Commissioner of Income Tax – 3, Chennai, dated 29.03.2017 and pertains to assessment year 2010-11.

2. Shri N.V. Balaji, the Ld.counsel for the assessee, submitted that the Principal Commissioner found that the assessee changed the method of accounting by which there was short declaration of income to the extent of ₹50,74,14,000/-. Referring to the assessment order, more particularly para 5, the Ld.counsel submitted that while considering the TDS claim, the assessee explained before the Assessing Officer about the change of method of accounting. According to the Ld. counsel, change of method of accounting is prerogative of the assessee. Even though there would be some benefit in the first year in which the method of accounting was changed, in the subsequent years, there will be revenue neutral, therefore, change of method cannot be a reason for the Principal Commissioner to exercise his jurisdiction under Section 263 of the Act. When the Assessing Officer specifically raised query with regard to change of method of accounting, the assessee explained in writing why the method of accounting was changed. The Ld.counsel further submitted that it is mandatory for the assessee to maintain the method of accounting, as per Accounting Standard. Therefore, the assessee changed the method of accounting. Hence, according to the Ld. counsel, the

Principal Commissioner is not justified in exercising his revisional jurisdiction under Section 263 of the Act.

3. We heard Shri D. Prabhu Mukunth Arun Kumar, Jr. Standing Counsel for the Revenue also. The issue of change in the method of accounting and consequential declaration of short income to the extent of ₹50,74,14,000/- was not subject matter of discussion in the assessment order. The assessee claims that while considering the issue of TDS, a specific query was raised by the Assessing Officer with regard to change in the method of accounting and the assessee also explained the same. Unfortunately, the explanation of the assessee was not considered by the Assessing Officer. The Assessing Officer being the original authority, is expected to pass a speaking order by bringing all the material available on record for discussion. The decision and reasons for decision shall be reflected in the assessment order itself. The Assessing Officer cannot substitute by way of any affidavit or additional evidence for the reasons recorded in the assessment order. This Tribunal is of the considered opinion that recording of reasons in the assessment order would avoid arbitrary decision on the part of the Assessing Officer. Moreover, it exhibits fairness on the decision making

process. The recording of reasons is a live link to the mind of the decision maker and the material available on record. Since, admittedly, the change in the method of accounting and consequential short declaration of income to the extent of ₹50,74,14,000/- are not reflected from the assessment order, this Tribunal is of the considered opinion that the Principal Commissioner has rightly invoked his jurisdiction under Section 263 of the Act. Therefore, this Tribunal has no reason to interfere with the order of the lower authority and accordingly the same is confirmed.

4. In the result, the appeal filed by the assessee stands dismissed.

Order pronounced on 18th January, 2018 at Chennai.

sd/-
(ए. मोहन अलंकामणी)
(A. Mohan Alankamony)
लेखा सदस्य/Accountant Member

sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 18th January, 2018.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. Principal CIT-3, Chennai.
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.