

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.91/Mds/2017

निर्धारण वर्ष / Assessment Year : 2010-11

The Deputy Commissioner of
Income Tax,
Corporate Circle – 2,
Madurai.

v.

M/s Ontime Transport
Company Limited
(Now known as Ontime
Industrial Services Ltd.),
47, PSK Nagar,
Rajapalayam – 626 108.

(अपीलार्थी/Appellant)

PAN : AAACO 8508 Q
(प्रत्यर्थी/Respondent)

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

प्रत्यर्थी की ओर से/Respondent by : Shri V. Jagadisan, CA

सुनवाई की तारीख/Date of Hearing : 11.01.2018

घोषणा की तारीख/Date of Pronouncement : 25.01.2018

आदेश / O R D E R

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

This appeal of the Revenue is directed against the order of the Commissioner of Income Tax (Appeals)-1, Madurai, dated 20.10.2016 and pertains to assessment year 2010-11.

2. Sh.D. Prabhu Mukunth Arun Kumar, Jr. Standing Counsel for Revenue, submitted that the Assessing Officer disallowed ₹36,35,13,737/- under Section 40(a)(ia) of the Income-tax Act, 1961 (in short 'the Act') for non-deduction of tax. Referring to Section 194C(6) of the Act, the Jr. Standing Counsel submitted that there shall not be any deduction while crediting or paying the amount to the contractor for plying, hiring or leasing goods carriages, wherever the contractor owns ten or more goods carriages at any time during the previous year and also files declaration to that effect alongwith his Permanent Account Number. Referring to Section 194C(7) of the Act, the Jr. Standing Counsel submitted that the person responsible for paying or crediting the amount to the person referred to clause (6) or (7) of Section 194C of the Act, is independent to each other, therefore, the CIT(Appeals) is not justified in allowing the claim of the assessee.

3. On the contrary, Shri V. Jagadisan, the Ld. representative for the assessee, submitted that Section 194C(6) & 194C(7) of the Act are independent sections. According to the Ld. representative, just because there was violation of Section 194C(7) of the Act, there cannot be any disallowance under Section 40(a)(ia) of the Act, if the assessee complies with the requirement of Section 194C(6) of the

Act. Moreover, according to the Ld. representative, the CBDT notified the form only on 15.10.2010, therefore, there was no prescribed form for notification. Hence, according to the Ld. representative, the CIT(Appeals) has rightly deleted the addition.

4. We have considered the rival submissions on either side and perused the relevant material available on record. Section 194C(7) of the Act requires that the assessee has to furnish information in the prescribed form. It is not in dispute that the CBDT notified the form only on 15.10.2010 which is admittedly applicable for the quarterly statement due on 15.10.2010 and not before that. Therefore, the CIT(Appeals) has rightly deleted the addition, hence, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

5. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 25th January, 2018 at Chennai.

sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 25th January, 2018.

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)-1, Madurai
4. Principal CIT-1, Madurai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.