

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI**

श्री जॉर्ज माथन, न्यायिक सदस्य एवं
श्री एस जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2526/Chny/2016
निर्धारण वर्ष /Assessment Year: 2010-11

M/s.Ponnusamy Hotel,
No.55/1, Gowdiya Mutt Road,
Royapettah,
Chennai-600 014.

[PAN: AAAFP 0621 N]
(अपीलार्थी/Appellant)

Vs. The Jt. Commissioner of –
Income Tax,
Business Range-IX (I/C),
'Kannammai Building' (4th
Floor), No.611, Anna Salai,
Chennai-600 006.
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Ms.Sushma Harini.A, Adv.
प्रत्यर्थी की ओर से /Respondent by	:	Mr.S.Nataraja, JCIT
सुनवाई की तारीख/Date of Hearing	:	14.02.2018
घोषणा की तारीख / Date of Pronouncement	:	14.02.2018

आदेश / O R D E R

PER GEORGE MATHAN, JUDICIAL MEMBER:

ITA No.2526/Chny/2016 is an appeal filed by the assessee against the Order of Commissioner of Income Tax (Appeals)-13, Chennai, in ITA No.297/CIT(A)-13/2010-11 dated 29.02.2016 for the AY 2010-11.

2. Mr.S.Nataraja, JCIT, represented on behalf of the Revenue and Ms.Sushma Harini.A, Adv., represented on behalf of the assessee.

3. The appeal is delayed 118 days, for which, the assessee has filed necessary Affidavit for condonation of delay. It is mentioned that the Managing Partner who is in the know of all the affairs of the Partnership Firm, was suffering from coronary artery disease, for which, necessary Medical Certificate has also been produced. The Revenue has objected to the condonation of the delay. However, the Affidavit filed by the assessee has not been shown to be false. Consequently, the delay in filing of the appeal is condoned and the appeal is disposed off on merits.

4. It was submitted by the Ld.AR that the assessee is a Partnership Firm, which is doing business of running of hotels. In the course of the assessment, sample examination of the purchases were verified in respect of the purchase of prawns from Smt.V.Latha. It was found that the assessee had claimed purchases to an extent of Rs.30,65,705/- and an outstanding closing balance of Rs.5,77,186/- as on 31.03.2010. It was a submission that the AO had verified the bank statement of Smt.V.Latha and had noticed that the payments credited from the assessee during the year was only to an extent of Rs.22,35,325/-. Consequently, the AO had issued Show Cause Notice to the assessee as to why the difference between Rs.30,65,705/- and Rs. 22,35,325/- coming to Rs.8,30,380/-, was not liable to be disallowed. The assessee had filed the reconciliation statement along with the ledger copies. It was a submission that the AO without considering the reconciliation had held that there was an absence

of evidence in respect of payment of Rs.8,30,380/- towards the purchases from Smt.V.Latha and consequently, had disallowed the said amount. It was a submission that on appeal, the Ld.CIT(A) had confirmed the disallowance. It was a submission of the Ld.AR that the assessee has not done any cash purchases and all the purchases from Smt.V.Latha was by cheque. The Ld.AR placed before us a copy of the ledger account for a period from 01.04.2009 to 31.03.2010. It was a submission that as per the said ledger, the opening balance was Rs.2,08,351/-, the closing balance was Rs.5,77,186/- and the total payments were to an extent of Rs.29,45,705/-. It was a submission that thus, as per the ledger, itself, the account was a running account and the AO has not considered the fact that even the closing balance has been accepted by the supplier. It was a submission that if the payments are considered during the year, then the reconciliation would be clear that the assessee is following mercantile system of accounting. As per the mercantile system of accounting and as per the ledger maintained by the assessee, the assessee has made purchases of Rs.30,65,705/-, out of which, opening balance if it is reduced as also the closing balance if it is reduced, the payments during the year nearly came to Rs.22.80 lakhs. It was a submission that all the payments having been made by cheque, no disallowance is called for. It was a further submission that the reconciliation as submitted by the assessee, has also not been dislodged by the Revenue.

5. In reply, the Ld.DR vehemently supported the order of the AO and the Ld.CIT(A).

6. We have considered the rival submissions.

7. A perusal of the ledger account as produced by the assessee clearly shows that all the payments to Smt.V.Latha in respect of the purchase of prawns are clearly by cheque. The AO recognizes that reconciliation statement has been filed before him. The AO also recognizes that closing balance as recorded by the assessee and as recorded by Smt.V.Latha, the supplier, are identical to an extent of Rs.5,77,186/-. However, the AO when he states that an amount of Rs. Rs.8,30,380/- has not been shown in the banking account of Smt.V.Latha, admittedly, has not satisfied which are the payments or the bills, which has not been shown to have been paid in the case of the assessee. Further, if the opening balance and the closing balance of the ledger, is removed in so far as the said opening balance is related to the earlier year and the closing balance is not to be considered as it would not be reflected in the bank account in so far as it has not been paid by issuance of cheque, the accounts would tally. This being so, we are of the view that there is no difference in the purchase account, which calls for any addition and consequently, the same stands deleted.

8. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the Open Court on February 14, 2018, at Chennai.

Sd/-

(एस जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: February 14, 2018.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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