

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI
श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष
BEFORE SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER
AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER

आयकरअपीलसं./I.T.A.No.1835/CHNY/2017
(निर्धारणवर्ष / Assessment Year: 2012-13)

The Income Tax Officer, Ward-2, Virudhunagar,	Vs	Shri A Jayasankar, No.77, Railway Feeder Road, Sattur – 626 203
		PAN: AFBPJ3414M
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Sanat Kumar Raha, JCIT
प्रत्यर्थीकीओरसे/Respondent by	:	None

सुनवाईकीतारीख/Date of hearing	:	03.01.2018
घोषणाकीतारीख /Date of Pronouncement	:	09.02.2018

आदेश / ORDER

Per A. Mohan Alankamony, AM:-

The appeal by the Revenue is directed against the order passed by the learned Commissioner of Income Tax (Appeals)- 3, Chennai dated 05.05.2017 in ITA No.0037/2015-16 for the assessment year 2012-13 passed U/s.250(6) r.w.s. 143(3) of the Act. At the time of hearing the Ld.AR was not present before the Bench, however on perusing the file and the submission of the Ld.DR the Bench decided to hear the appeal ex-parte.

2. The Revenue has raised several grounds in its appeal however the crux of the issue is that the Ld.CIT(A) has erred in deleting the addition made by the Ld.AO amounting to Rs.53,71,000/- as unexplained cash credits U/s.68 of the Act, without considering the Remand Report in its entirety.

3. The brief facts of the case are that the assessee is an individual engaged in the business of purchase and sale of chilly, filed his return of income for the assessment year 2012-13 on 04.10.2012 admitting total income of Rs.2,66,520/-. The case was selected for scrutiny and finally assessment order was passed on 31.03.2015 U/s.143(3) of the Act, wherein the Ld.AO treated the unsecured loan received by the assessee amounting to Rs.58,14,300/- as unexplained cash credits U/s.68 of the Act, since the assessee had not produced the loan creditors before the Revenue for examination in spite of sufficient opportunities provided to the assessee. The Ld.AO further was of the view that the assessee has not proved the identity, source and genuineness of the loan transaction.

4. On appeal the Ld.CIT(A) obtained Remand Report dated 29.03.2017 from the Ld.AO and arrived at the conclusion that the

assessee had established the genuineness of the loan to the extent of Rs.53,71000(58,14,300 – 4,43,300). Accordingly he allowed the appeal of the assessee and deleted the addition of Rs.53,71000/- by observing as under:

“3.4. The Assessing Officer submitted remand report dated 29.03.2017. A copy of the remand report was supplied to the representative and the case was discussed with him. In the above remand report, the Assessing Officer has reported that the creditors namely Shri D. Inbasekaran and Shri I. Sudhakar had filed confirmation regarding grant of unsecured loan and repayment details. It is also stated that the unsecured loans received by the appellant during this year were repaid in the next financial year to the creditors. It is also reported that since the creditors had not admitted the loans given to the appellant, action is taken u/s 148 in respect of both the creditors. .

3.5. At the time of hearing the representative submitted that since the Assessing Officer accepted the genuineness of loans received from Shri I. Sudhakar and Shri D. Inbasekaran, the addition should be deleted. However, he has no objection for confirming the addition of loan credits in the name of the following parties:

<i>B, Chandrasekaran, Sattur</i>	<i>Rs.1,87,000/-</i>
<i>A. Anand, Sattur</i>	<i>Rs.1,87,000/-</i>
<i>I. Padmavathi, Sattur</i>	<i><u>Rs. 69,300/-</u></i>
<i>Total</i>	<i><u>Rs.4,43,000/-</u></i>

3.6. I have considered the submissions of the representative. The Assessing Officer in the remand report accepted the genuineness of loans and irrespective of the fact that notices u/s 148 are issued in the cases of the creditors, the addition in the hands of the appellant is deleted in respect of credits in the name Shri I. Sudhakar and Shri D. Inbasekaran. However, the credits in the names of other three creditors totalling to Rs.4,43,300/- is confirmed, as the appellant's representative accepted the same. Accordingly, the addition of RS.58,14,300/- is restricted to Rs.4,43,300/-”

5. The Ld.DR produced the Remand Report of the Ld.AO before us and argued that the Ld.CIT(A) has not considered the

report in its entirety while allowing the appeal of the assessee. He further submitted that the Ld.AO in his remand report had only stated certain facts but had not arrived at a conclusion for treating the loan transaction to be genuine. He further pleaded that the genuineness of the loan transaction is not established and therefore the order of the Ld.AO may be upheld.

6. After perusing the facts of the case and the materials produced before us and hearing the arguments advanced by the Ld.DR, we are of the considered view that there is merit in the order of the Ld.CIT(A). The Ld.CIT(A) after examining the Remand Report has rightly arrived at the conclusion that the transactions are genuine and the identity of the lenders are also established. Though the Ld.AO in his remand report did not express any finding against the assessee other than stating the facts he did not proceed further to investigate on the issue. If there was any doubt in the mind of the Ld.AO, he would have proceeded to investigate further which he did not. Therefore it can be presumed that the Ld.AO was also satisfied with the genuineness of the transaction and the identity of the lenders. In these circumstances we do not find any fault in the order

of the Ld.CIT(A) and therefore we do not find it necessary to interfere in his order.

7. In the result, the appeal of the Revenue is dismissed.

Order pronounced on the 9th February, 2018 at Chennai.

Sd/-

(धुव्वुरु आर.एल रेड्डी)

(Duvvuru RL Reddy)

न्यायिक सदस्य /Judicial Member

Sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य / Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 9th February, 2018

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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