

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' 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.1343/Chny/2017

निर्धारण वर्ष / Assessment Year : 2012-13

M/s Avinash Agencies,
No.15A, Ramakrishnapuram East,
Karur – 639 001.

v. The Income Tax Officer,
Ward – 1,
Karur.

PAN : AAAFA 9798 B

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri N. Quadir Hoseyn, Advocate

प्रत्यर्थी की ओर से/Respondent by : Ms. S. Vijayaprabha, JCIT

सुनवाई की तारीख/Date of Hearing : 02.04.2018

घोषणा की तारीख/Date of Pronouncement : 26.04.2018

आदेश /ORDER

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

This appeal of the assessee is directed against the order of the Principal Commissioner of Income Tax, Trichy-1, Trichy, dated 27.03.2017 and pertains to assessment year 2012-13.

2. Shri N. Quadir Hoseyn, the Ld.counsel for the assessee, submitted that the assessee has shown an amount of ₹20,00,000/-

as liability towards building advance account and admitted rental income from godown at ₹24,000/-. While computing the let out value of property, according to the Ld. counsel, the Assessing Officer has to compare the fair rental value, municipal value, standard rent and actual rent received. In fact, the Assessing Officer raised a query, a copy of which is available at page 12 of the paper-book. According to the Ld. counsel, the Assessing Officer found that it was a normal commercial practice to receive ten times of monthly rent as advance. However, the assessee has shown only ₹2,00,000/-. After considering the explanation of the assessee, according to the Ld. counsel, the Assessing Officer accepted the case of the assessee. However, the Principal Commissioner found that the rental value of the property has to be determined as per Section 23(1)(a) of the Income-tax Act, 1961 (in short 'the Act'). Having influenced by the rental advance received by the assessee, the Principal Commissioner found that the annual rental value would be much more than what was declared by the assessee. According to the Ld. counsel, when the Assessing Officer has taken one of the possible views after considering the material available on record, the Principal Commissioner cannot revise the order in exercise of his revisional jurisdiction under Section 263 of the Act.

3. We heard Ms. S. Vijayaprabha, the Ld. Departmental Representative also. A perusal of the order of the Assessing Officer does not indicate the application of mind of the Assessing Officer with respect to fair market value or the annual rental value or the actual rent received by the assessee on the godown let out by it. The proceeding before the Assessing Officer is a judicial proceeding. Therefore, it is for the Assessing Officer to examine the material available on record and decide the issue in one way or other. The application of mind of the Assessing Officer to the material available on record should be reflected in the assessment order. Unless the Assessing Officer discusses the reason for conclusion reached in the assessment order, the revisional / appellate authority may not be able to appreciate the order of the Assessing Officer. This Tribunal is of the considered opinion that disclosing reason for conclusion reached in the assessment order would establish live link between the mind of the decision maker and material available on record. Moreover, it would avoid arbitrariness in the decision making process. Since the assessment order is silent and the Assessing Officer has not recorded any reason for the conclusion reached, this Tribunal is of the considered

opinion that the Principal Commissioner has rightly found that the order of the Assessing Officer is erroneous and prejudicial to the interests of Revenue. Therefore, this Tribunal do not find any 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 26th April, 2018 at Chennai.

sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 26th April, 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. Principal CIT, Trichy-1, Trichy

4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF.