

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI
श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं ए. मोहन अलंकामणी, लेखा सदस्य के समक्ष
BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.2306/Chny/2017
(निर्धारण वर्ष / Assessment Year: 2010-11)

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| M/s. Clinisys Healthcare India Pvt. Ltd., 82, Astabhujam Road, Hakkim Rahim Arcade, Choolai, Chennai – 600 006. | Vs | The Asst. Commissioner of Income Tax, Company Circle 1(1), Chennai. |
| PAN: AADCC6544R | | |
| (अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |

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| अपीलार्थी की ओर से/ Appellant by | : | Shri T. Banusekar, CA |
| प्रत्यर्थी की ओर से/Respondent by | : | Smt. Ruby George, CIT |

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| सुनवाई की तारीख/Date of hearing | : | 15.02.2018 |
| घोषणा की तारीख/Date of Pronouncement | : | 03.05.2018 |

आदेश / ORDER

Per A. Mohan Alankamony, AM:-

This appeal by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals)-5, Chennai, dated 21.06.2017 in ITA No.75/CIT(A)/13-14 for the assessment year 2010-11 passed U/s.250(6) r.w.s. 144 of the Act.

2 The assessee has raised several grounds in its appeal however the crux of the issue is that the Ld.CIT(A) has erred by not admitting

fresh evidence produced before him for the first time and further confirmed the ex-parte order of the Ld.AO U/s.144 of the Act.

3. The brief facts of the case are that the assessee is a company engaged in the business of hematology, biochemistry reagents and semi auto and fully auto chemistry analyzers reagents, importing and retail sales as well as local purchase from dealers and reselling to traders and hospitals attached laboratories, filed its return of income for the assessment year 2010-11 on 07.11.2011 declaring total income of Rs.25,765/-. The case was selected for scrutiny under CASS and notice U/s.143(2) of the Act was issued on 13.08.2012 and finally assessment order was passed U/s.144 of the Act because neither the assessee nor its representative was present during the assessment proceedings, wherein the Ld.AO made several additions. On appeal, the Ld.CIT(A) confirmed the order of the Ld.AO without admitting the fresh evidence produced before him for the first time.

4. At the outset the Ld.AR vehemently argued before us stating that the assessee had produced all the relevant documents before the Ld.CIT(A), however without admitting the same and calling for Remand Report from the Ld.AO, the Ld.CIT(A) had dismissed the appeal of the assessee. It was therefore pleaded that one more

opportunity may be provided to the assessee to submit the requisite materials before the Ld.AO and the assessee has a fair chance for the deletion of additions made by the Ld.AO on the earlier instance. The Ld.DR on the other hand vehemently argued in support of the orders of the Ld.Revenue Authorities and further recapitulated the Bench about the lethargic and non-cooperative attitude of the assessee in the assessment and first appellate proceedings.

5. We have heard the rival submissions and carefully perused the materials available on record. From the facts of the case it is apparent that the assessee was non-cooperative before the Ld.AO at the time of assessment proceedings. It also appears that the assessee had produced some materials before the Ld.CIT(A) in the appellate proceedings. Though we find total negligence on the part of the assessee in the manner in which it conducted before the Ld.Revenue Authorities in their proceedings, we are of the considered view that the Ld.CIT(A) ought to have admitted the fresh evidence in accordance with Rule 46A of the Rules and thereafter called for Remand Report from the Ld.AO before arriving at his decision. Considering these facts and circumstance of the case, in the interest of justice, we hereby remit the matter back to the file of Ld.AO for de-nova consideration with directions to Ld.AO to accept

any evidence produced before him in order to facilitate the assessment proceedings. We also hereby caution the assessee and its representative to promptly cooperate before the Ld.Revenue Authorities in their proceedings, failing which the Ld.Revenue Authorities shall be at liberty to pass appropriate order in accordance with merit and law based on the materials on record.

6. In the result the appeal of the assessee is allowed for statistical purposes as indicated herein above.

Order pronounced on the 03rd May, 2018 at Chennai.

Sd/-

(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

Sd/-

(ए. मोहन अलंकामणी)
(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 03rd May, 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 |