

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

श्री जॉर्ज माथन, न्यायिक सदस्यएवंश्री एस जयरामन, लेखा सदस्य केसमक्ष

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

आयकर अपील सं./I.T.A. No. 2511/Chny/2017

निर्धारण वर्ष/Assessment Year : 2013-14

Smt. Jothilakshmi. V.,
New No. 76, Linghi Chetty St.,
Chennai – 600 001.

Income Tax Officer,
Vs. Non- Corporate Ward -11(4),
Chennai – 600 034.

[PAN: ADPPJ 6288D]

(अपीलार्थी/Appellant)

(प्रत्यर्थी /Respondent)

Assessee by

: Shri. K. Ravi, Advocate

Revenue by

: Shri. N. Madhavan, Addl. CIT

सुनवाईकीतारीख/Date of Hearing

: 01.05.2018

घोषणाकीतारीख/Date of Pronouncement

: 01.05.2018

आदेश/ O R D E R

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the order of Commissioner of Income Tax (Appeals)- 13, Chennai in ITA No. 35/CIT(A)-13/2013-14 dated 18.07.2017 for assessment year 2013-14.

2. Smt. Jothilakshmi, the assessee, an individual is in the transport business. While making the assessment for assessment year 2013-14, the AO noted that in the cases of Associate Road Carriers and M/s. Venkateswara Transports, the Sundry Creditors balance in the assessee's books were of Rs. 1,24,21,147/- and Rs. 10,07,528/- respectively. However, they can confirmed credit to the extent of Rs. 50,87,604/- and Rs. 5,86,370/-, respectively. Therefore, the difference amounting to Rs. 73,33,543/- & Rs. 4,21,158/- totalling to Rs. 77,54,701/- was added to the total income u/s. 41(1) treating them as cessation of liability. Aggrieved, the assessee filed an appeal before the CIT(A). The CIT(A) dismissed the appeal. Aggrieved against the order of the CIT(A), the assessee filed this appeal.

3. The AR inviting our attention to the assessment order which is dated 31.03.2016 submitted by show cause notice dated 28.03.2016, the assessee was asked as to why the difference of amount should not be added to the total income. The assessee by her letter dated 30.06.2016 explained, inter alia, that logistic business is purely labour oriented. It is general practice in transport industries that whatever billed by buyers were always disputed by our clients. This happens because, generally the clients never agree for number of labour and rate of per labour. At a time when they pay the bill, invariably they deduct certain number of labours and rate of per labour. Since year long no proper reconciliation were carried out generally our balance with

client balance differ. In general, transporters are not educated properly and they never agree for the corrected figures and unfortunately difference continues in the books of accounts. Further, we confirm that whatever balance given as per our books are correct etc. However, the Assessing Officer did not agree and made an addition. Unfortunately, the CIT(A) also without considering the entire facts and associated circumstances dismissed the appeal. Inviting our attention to the paper book, wherein, the copies of E-mails/telecommunications and copies of statements of outstanding issued by the Associate Road Carriers etc. are placed, the AR pleaded that the addition made by the Assessing Officer and sustained by the CIT(A) does not warrant. In fact, the AR pleaded that in the interests of justice, the issue may be remitted to the AO. Before him the assessee can explain each and every transaction.

4. Per contra, the DR submitted that though, the assessee has shown her inability before the Assessing Officer submitting that during the month of November, 2010 there was a fire accident in the godown, all the stocks stored are belonged to BILT was destroyed in fire, after the fire accident, BILT has completely stopped doing the business with the assessee and therefore they have received very little amount from the outstanding etc. However, the assessee could not confirm, and it took a different plea before the CIT(A).

However, could not prove the genuineness of the creditors etc before the CIT(A) too and hence, the order of the CIT(A) may be confirmed.

5. We heard the rival contentions and gone through the relevant material. Since, the facts and circumstances of the case canvassed has not been properly verified, in the interests of justice, we are of the view that these issues require re-examination and hence, we remit the issues back to the AO for a fresh verification. The assessee shall place all the materials in its support before the AO and comply to the AO's requirements as per law. The AO is free to conduct appropriate enquiry as deemed fit, but he shall furnish adequate opportunity to the assessee on the material etc to be used against it and decide the matter in accordance with law .

6. In the result, the assessee's appeal is treated as partly allowed for statistical purposes.

Order pronounced in the open court on 01st May, 2018 at Chennai.

Sd/-
(जॉर्जमाथन)
(GEORGE MATHAN)
न्यायिकसदस्य/Judicial Member

Sd/-
(एसजयरामन)
(S. JAYARAMAN)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 01st May, 2018

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त) अपील(/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF