

आयकर अपीलीय अधिकरण, 'सी'(SMC) न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' (SMC) BENCH : CHENNAI

श्री अब्राहम पी. जॉर्ज, लेखा सदस्य एवं
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष।
[BEFORE SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER
AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER]

आयकर अपील सं./I.T.A. No.677/CHNY/2018.
निर्धारण वर्ष /Assessment year : 2008-2009.

Smt. Y. Uma Maheshwari,
Prop. Yashu Renaissance,
New No.56, Old No.59,
12th Street,
Anna Nagar,
Chennai 600 102.

The Assistant Commissioner of
Income Tax,
Non Corporate Circle 14,
Chennai.

[PAN AAKPU 9674J]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri. M. Karunakaran, Adv.
प्रत्यर्थी की ओर से /Respondent by : Shri. B. Sagadevan, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing : 07-08-2018
घोषणा की तारीख /Date of Pronouncement : 09-08-2018

आदेश / ORDER

PER ABRAHAM P. GEORGE, ACCOUNTANT MEMBER:-

In this appeal filed by the assessee, which is directed against an order dated 20.12.2017 of Id. Commissioner of Income Tax (Appeals)-7, Chennai, it has taken the following grounds:-

1. The authorities below erred in passing the orders ex-parte without affording reasonable opportunity and in determining the total income of the appellant at ₹13,36,634/- against Rs. returned.

2. The appellant submits that the notices were issued both by the assessing officer and the Commissioner of Income-tax (Appeals) at Nethaji Street, Anna Nagar instead of the correct address of 12th Street, Anna Nagar and the appellant had never received any notices from the department and thus prevented by reasonable cause from responding to the various notices sent by the department.

3. The authorities below erred in disallowing 20% of the wages and labour claimed on estimated basis when the expenses are fully vouched and quite reasonable having regard to the turnover of the appellant and the nature of business carried on by her.

4. The authorities below erred in disallowing mortgage loan interest of Rs.2,40,823/-.

5. The appellant submits that the mortgage loan was used in the business of the appellant and therefore the interest is clearly admissible as deduction u/s 36(1)(iii) of the Act

6. The appellant therefore prays that the assessment may be set aside to the assessing officer to complete the assessment afresh after providing reasonable opportunity and to delete the additions made in the assessment and render justice”.

2. Ld. Counsel for the assessee submitted that Id. Assessing Officer had completed the assessment u/s.144 of the Income Tax Act, 1961 (in short "the Act") by making a disallowance of 20% of the

expenditure claimed under the heads wages, labour charges and salaries. Apart from that, as per the Id. Authorised Representative, the whole of the mortgage loan interest was also disallowed. Contention of the Id. Authorised Representative was that assessee could not appear before Id. Assessing Officer as well as Id. Commissioner of Income Tax (Appeals) due to wrong address being mentioned in the notices issued by these authorities. As per the Id. Authorised Representative, if given an opportunity assessee would be able to show that expenditure incurred by it in its civil contract and real estate business was correct with necessary evidence. Id. Authorised Representative also gave an undertaking that assessee would enter appearance before lower authorities without fail.

3. Per contra, Id. Departmental Representative submitted that despite number of opportunities given, assessee had failed to enter appearance before Id. Assessing Officer or Id. Commissioner of Income Tax (Appeals). As per the Id. Departmental Representative, assessee also did not intimate change of address.

4. We have considered the rival contentions and perused the orders of the authorities below. It is true that assessment was

completed u/s.144 of the Act for want of co-operation from the assessee. However, Id. Assessing Officer does mention in his order that Id. Authorised Representative of the assessee had appeared before him and filed certain details. Nevertheless, it seems assessee did not respond to a show cause notice issued on 24.12.2010. Ld. Assessing Officer had disallowed 20% on the wages, labour charges and salaries and whole of the mortgage loan interest. Though several notices, were issued by Id. Commissioner of Income Tax (Appeals) during the appeal proceedings, nobody appeared. However Id. Commissioner of Income Tax (Appeals) allowed mortgage loan interest of ₹1,50,000/-, while sustaining the other disallowances. Nevertheless, considering the undertaking given by the Id. Counsel for the assessee, we are of the opinion that assessee can be given one more opportunity for explaining its case before Id.CIT (Appeals) with necessary evidence. Assessee shall without fail enter appearance before Id. Commissioner of Income Tax (Appeals) on the date of hearing. Ld. Commissioner of Income Tax (Appeals) shall proceed in accordance with law, whether or not assessee enters appearance on the scheduled date of hearing. Assessee forthwith has to intimate in writing to the Id. Assessing Officer as well as Id. Commissioner of Income Tax (Appeals) its new address. With these observations, we set aside the order of the

Id. Commissioner of Income Tax (Appeals) and remit the case back to his file for consideration afresh in accordance with law.

5. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced on Thursday, the 9th day of August, 2018, at Chennai.

Sd/-

(धुव्वुरु आर.एल रेड्डी)
(DUVVURU RL REDDY)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai

दिनांक/Dated:9th August, 2018.

KV

Sd/-

(अब्राहम पी. जॉर्ज)
(ABRAHAM P. GEORGE)

लेखा सदस्य /ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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