

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
'C' 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.3143/Chny/2017

निर्धारण वर्ष / Assessment Year : 2006-07

The Assistant Commissioner of
Income Tax,
Central Circle – 2(4),
Chennai - 600 034.

(अपीलार्थी/Appellant)

Shri M.V. Muthuramalingam,
v. No.21-A, T.S. Krishna Nagar,
Mogappair, Chennai - 600 037.

PAN : AAKPM 0400 G

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri R. Clement Ramesh Kumar, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri G. Baskar, Advocate

सुनवाई की तारीख/Date of Hearing : 13.08.2018

घोषणा की तारीख/Date of Pronouncement : 13.08.2018

आदेश /ORDER

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

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -18, Chennai, dated 05.09.2017 and pertains to assessment year 2006-07.

2. We heard Shri R. Clement Ramesh Kumar, the Ld. Departmental Representative and Shri G. Baskar, the Ld.counsel

for the assessee. Admittedly, the tax effect involved in this appeal is less than ₹20 lakhs, which is less than the monetary limit fixed by the CBDT for the Revenue to file appeal before this Tribunal. The Commissioner of Income Tax, while directing the Assessing Officer to file appeal before this Tribunal, had not considered the so-called audit objection said to be raised by the Revenue's audit party. Since the Revenue's audit party objection was not brought to the notice of the Commissioner at the time of granting permission to file the appeal before this Tribunal, the appeal is not maintainable. It is obligatory for the Assessing Officer or the other authority to bring to the notice of the Commissioner the audit objection, if any, at the time of putting up the papers for direction / approval under Section 253(2) of the I.T. Act before the Commissioner. Since the Commissioner had not considered the so-called audit objection at the time of granting approval / direction for filing the appeal before the Tribunal, the appeal filed by the Assessing Officer is not maintainable. This view of the Tribunal is fortified by the judgment of Madras High Court in Principal CIT v. M/s Paragon Steels (P.) Ltd. (T.C.A. No.579 of 2017) dated 07.12.2017. Accordingly, the appeal filed by the Revenue is dismissed.

3. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced in the open court after conclusion of hearing on 13th August, 2018, at Chennai.

sd/-
(ए. मोहन अलंकामणी)
(A. Mohan Alankamony)
लेखा सदस्य/Accountant Member

sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 13th August, 2018.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-18, Chennai-34
4. Principal CIT, Central-2, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.