

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.261/Chny/2016

निर्धारण वर्ष / Assessment Year : 2011-12

The Deputy Commissioner of
Income Tax,
Circle – 2,
121, Sixty Feet Road,
Tirupur – 641 602.

Shri N. Sundararaj,
v. Prop: M/s Raj Associates,
No.3, Manju Complex,
Sivasakthi Nagar 2nd Street,
Parapalayam, Tirupur-641 604.

(अपीलार्थी/Appellant)

PAN : ALMPS 1563 K

(प्रत्यर्थी/Respondent)

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

प्रत्यर्थी की ओर से/Respondent by : Sh. T. Banusekar, CA

सुनवाई की तारीख/Date of Hearing : 13.08.2018

घोषणा की तारीख/Date of Pronouncement : 12.09.2018

आदेश / O R D E R

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

This appeal of the Revenue is directed against the order of the
Commissioner of Income Tax (Appeals) -3, Coimbatore, dated
28.10.2015 and pertains to assessment year 2011-12.

2. There was a delay of 21 days in filing this appeal by the Revenue. The Revenue has filed a petition for condonation of delay. We have heard the Ld. D.R. and the Ld. representative for the assessee. We find that there was sufficient cause for not filing the appeal before the stipulated time. Therefore, we condone the delay and admit the appeal.

3. Shri R. Clement Ramesh Kumar, the Ld. Departmental Representative, submitted that the Assessing Officer disallowed a sum of ₹30,93,005/-, which was credited into the current account of Shri N. Sundararaj. A sum of ₹35,68,663/- was also disallowed being unaccounted contract receipts. The Assessing Officer has also disallowed ₹5,09,888/- being the building maintenance and another sum of ₹82,604/- being the travel expenses. According to the Ld. D.R., the Assessing Officer found that the assessee has transferred the entire contract business to a firm known as M/s Raj Associates in which the assessee is also one of the partners. According to the Ld. D.R., the Assessing Officer found that the assessee has not admitted some of the receipts either in the individual books or in the books of the firm. Therefore, according to the Ld. D.R., the matter needs to be re-examined.

4. We heard Sh. T. Banusekar, the Ld. representative for the assessee also. According to the Ld. representative, the CIT(Appeals)

allowed the claim of the assessee on the ground that the assessee is following cash system of accounting. According to the Ld. representative, the credit in the books M/s Raj Associates are the advances received by the assessee from various parties towards construction of building. The construction was also completed and the entire receipts were brought to tax by the assessee for the assessment year 2012-13. According to the Ld. representative, the Assessing Officer without verifying these facts, disallowed the claim of the assessee.

5. We have considered the rival submissions on either side and perused the relevant material available on record. The assessee claims that advances received from construction activity were accounted in the books of M/s Raj Associates, the partnership firm in which the assessee is also a partner. In this case, the method of accounting regularly followed by the assessee needs to be verified. Therefore, this Tribunal is of the considered opinion that the matter needs to be verified by the Assessing Officer. Accordingly, the orders of both the authorities below are set aside and the entire issue raised by the Revenue is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the matter in the light of the material that may be filed by the assessee and thereafter decide the issue afresh in accordance with law, after giving a reasonable opportunity to the assessee.

6. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced in the court on 12th September, 2018 at Chennai.

sd/-

(ए. मोहन अलंकामणी)
(A. Mohan Alankamony)
लेखा सदस्य/Accountant Member
चेन्नई/Chennai,

दिनांक/Dated, the 12th September, 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. आयकर आयुक्त (अपील)/CIT(A)-3, Coimbatore
4. Principal CIT-3, Coimbatore
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.