

आयकर अपीलीय अधिकरण, बी / एस एम सी न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' SMC BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य के समक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER

आयकर अपील सं./ITA No.661/Chny/2018

निर्धारण वर्ष / Assessment Year : 2013-14

Shri Mangesh Kumar. K (HUF),  
No.167, Bazaar Street,  
Chidambaram – 608 001.

v. The Income Tax Officer,  
Ward 3,  
Cuddalore.

PAN : AACHM 7809 K  
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S. Sridhar, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri B. Sagadevan, JCIT

सुनवाई की तारीख/Date of Hearing : 05.09.2018

घोषणा की तारीख/Date of Pronouncement : 12.09.2018

### **आदेश / O R D E R**

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals), Puducherry, dated 15.12.2017 and pertains to assessment year 2013-14.

2. The only issue arises for consideration is *ex parte* decision on estimate basis.

3. Shri S. Sridhar, the Ld.counsel for the assessee, submitted that there was a survey in the premises of the assessee. According to the Ld. counsel, the assessee was engaged in the business of pawn broking. The assessee claimed payment of salary and bonus to the employees. However, according to the Ld. counsel, the Assessing Officer disallowed the claim of the assessee to the extent 50% on the ground that Smt. M. Subhangi was engaged in the main business of pawn broking. On appeal by the assessee, according to the Ld. counsel, the CIT(Appeals) restricted the disallowance to 30%. According to the Ld. counsel, 30% of disallowance is very high, therefore, it may be restricted reasonably. On a query from the Bench what may be the reasonable disallowance? The Ld.counsel very fairly submitted that 15% of total claim may be a reasonable disallowance.

4. On the contrary, Shri B. Sagadevan, the Ld. Departmental Representative, submitted that it is not clear whether the register and ledger produced by the assessee before the authorities below were belonging to individual or HUF. Moreover, according to the Ld. D.R., no evidence was found for payment of bonus. In the absence of any material, the CIT(Appeals) has restricted the disallowance at 30%.

5. I have considered the rival submissions on either side and perused the relevant material available on record. The issue arises for consideration is allowance of expenses claimed by the assessee. The Assessing Officer disallowed 50% of total claim. However, the CIT(Appeals) restricted the same to 30% of total claim. Taking into consideration of the nature of business and the other circumstances, this Tribunal is of the considered opinion that disallowance 15% of total claim would meet the ends of justice. Accordingly, orders of both the authorities below are set aside and the Assessing Officer is directed to allow 15% of total claim of expenditure.

6. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the court on 12<sup>th</sup> September, 2018 at Chennai.

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

चेन्नई/Chennai,  
दिनांक/Dated, the 12<sup>th</sup> September, 2018

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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