

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH, CHENNAI
श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं ए. मोहन अलंकामणी, लेखा सदस्य के समक्ष
BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.2933/Chny/2017
(निर्धारण वर्ष / Assessment Year: 2012-13)

The Asst. Commissioner of Income Tax, Corporate Circle 4(1), Chennai	Vs	M/s. M K Aromatics Limited, No.43-47, Sidco Industrial Estate, Alathur, Tamil Nadu – 603 110.
		PAN: AAACE1049E
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Smt. S. Vijayaprabha, JCIT
प्रत्यर्थी की ओर से/ Respondent by	:	None

सुनवाई की तारीख/Date of hearing	:	09.07.2018
घोषणा की तारीख /Date of Pronouncement	:	04.09.2018

आदेश / ORDER

Per A. Mohan Alankamony, AM:-

The appeal by the Revenue is directed against the order passed by the learned Commissioner of Income Tax (Appeals)-8, Chennai, dated 01.09.2017 in ITA No.134/15-16 for the assessment year 2012-13 passed U/s.250(6) r.w.s. 143(3) of the Act. At the time of hearing the Ld.AR was not present before the Bench, however on perusing the file and hearing the submission of the Ld.DR the Bench decided to hear the appeal ex-parte.

2. The Revenue has raised the following grounds in its appeal:-

1. The order of the CIT(A) is contrary to law and facts of the case.

2. The Id.CIT(A) erred in deleting the addition of Rs 14,99,770/- made by the AO disallowing assessee's claim of agricultural income of Rs 8,45,000/- and expenses of Rs 6,54,770/-.

2.1 The Ld.CIT(A) erred in allowing assessee's claim when the assessee has not provided enough evidence to prove that the income admitted is only from agricultural activity.

2.2 The Ld.CIT(A) erred in allowing assessee's claim of expenses incurred towards agriculture when the assessee company failed to produce any proof of the same before the AO.

2.3 Having regard to the provisions of Rule 46A of the I.T. Rules, the CIT(A) ought to have forwarded the copies of cash book of income from agricultural operations, ledger extracts for purchases and other expenses which were produced before him for the first time, for examination of the AO.

3. The Ld.CIT(A) erred in deleting the addition made u/s 68 of Rs 47,00,000/- when the assessee company failed to substantiate its claim of unsecured loan.

3.1 The Id.CIT(A) erred in deleting the addition made u/s 68 when the assessee failed to produce before the AO any ledger, return of income, confirmation or any other evidence in support of its claim

3.2 Having regard to the provisions of Rule 46A of the I.T.Rules, the CIT(A) ought to have forwarded the copies of bank account statements maintained by the assessee in Bank of Maharashtra, Bangalore and the ledger extracts of the Bank which were produced before him for the first time, for examination of the AO.

4. For these and other grounds that may be adduced at the time of hearing, it is prayed that the order of the learned CIT(A) may be set aside and that of the Assessing Officer restored.

3. The brief facts of the case are that the assessee is a limited company engaged in the business of extracting fuel from waste plastics, filed its return of income for the assessment year 2012-13 electronically on 28.09.2012 admitting loss of Rs.60,77,800/- and 'nil' tax U/s. 115JB of the Act. The case was selected for scrutiny under CASS and notice U/s.143(2) of the Act was issued on 13.08.2013. Finally the assessment order was passed U/s.143(3) of the Act on 18.03.2015 wherein the Ld.AO made several additions.

4. On appeal, the Ld.CIT(A) deleted the addition made by the Ld.AO by treating the assessee's claim of agricultural income amounting to Rs.8,45,000/- as income from other source and disallowing expenses of Rs.6,54,770/- and with respect to addition made towards cash credit for Rs.47,00,000/- invoking the provisions of Section 68 of the Act.

5. At the outset the Ld.DR submitted before us that the Ld.CIT(A) had deleted the aforesaid additions based on fresh evidence produced before him for the first time and the Ld.AO did not have an opportunity to examine the same. It was therefore pleaded that the matter may be remitted back to the file of Ld.AO, so that the Ld.AO may be able to examine the fresh evidence produced before the Ld.CIT(A) which was not placed before the Ld.AO earlier.

6. After hearing the Ld.DR, we find merit in his submission. From the order of the Ld.CIT(A), it is apparent that the assessee had produced fresh evidence before him such as books of accounts maintained for agricultural operations, cash book with respect to agricultural operations, ledger extracts for purchase of pesticides and other materials and payment made towards salary. Further it appears that the assessee has produced before the Ld.CIT(A), the bank statements and other relevant books which was not placed before the Ld.AO. Based on these materials produced before the Ld.CIT(A) as fresh evidence, the Ld.CIT(A) had deleted the additions. However we are of the view that it would have been proper on the part of the Ld.CIT(A) to have obtained

'Remand Report' from the Ld.AO before arriving at his decision. Therefore considering the facts and circumstance of the case, we hereby remit back the appeal to the file of Ld.AO with direction to admit and examine the fresh evidence placed before the Ld.CIT(A) and also any other fresh materials produced before him and thereafter decide the matter in accordance with law and merit. The Ld.AR and the assessee is also hereby directed to co-operate with the Revenue in their proceedings, failing which the Ld.Revenue Authorities shall be at liberty to pass appropriate order in accordance with law and merit based on the materials on record.

7. In the result appeal of the Revenue is allowed for statistical purposes as indicated herein above.

Order pronounced on the 04th September, 2018 at Chennai.

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

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

चेन्नई/Chennai,
दिनांक/Dated 04th September, 2018

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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