

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

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री अब्राहम पी. जॉर्ज, लेखा सदस्य के समक्ष।
[BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER]

S.P.No.280/CHNY/2018

(in आयकर अपील सं./I.T.A. No.2386/CHNY/2018)

निर्धारण वर्ष /Assessment year : 2007-2008.

M/s. Jyothishkar Marketing
Services Pvt Ltd,
No.62, Old No.328,
Veerabhadran Street,
Nungambakkam, Chennai-34.

Vs. The Income Tax Officer
Company Ward II (1),
Chennai.

आयकर अपील सं./I.T.A. No.2386/CHNY/2018

निर्धारण वर्ष /Assessment year : 2007-2008.

M/s. Jyothishkar Marketing
Services Pvt Ltd,
No.62, Old No.328,
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Nungambakkam, Chennai -34.

Vs. The Income Tax Officer
Company Ward II (1),
Chennai.

[PAN AABCJ 1451E]
(Appellant)

(प्रत्यर्थी/Respondent)

Assessee by
Respondent by

: Shri. N. Vijay Kumar, C.A.
: Shri. B Sagadevan, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing

: 28-09-2018

घोषणा की तारीख /Date of Pronouncement

: 28-09-2018

आदेश / O R D E R**PER ABRAHAM P. GEORGE, ACCOUNTANT MEMBER**

Assessee through this stay petition pleads for stay of recovery of tax of ₹6,81,126/- and interest of ₹3,47,414/-, aggregating to ₹. 10,28,540/-.

2. Ld. Counsel for the assessee submitted that in the assessment done for the impugned assessment year, Id. Assessing Officer had made disallowance of ₹21,60,162/- against claim of harbor expenditure and ₹30,78,397/- against C & F charges. As per the Id. Authorised Representative, assessee was engaged in the business of exporting and marketing services and these expenses were incurred in relation to the said business. According to him, Id. Commissioner of Income Tax (Appeals) had deleted disallowance of ₹30,78,397/- made against C & F charges while sustaining the disallowance of harbor charges. Contention of the Id. Authorised Representative was that during the course of assessment proceedings, assessee had through its letter dated 29.06.2009 furnished to the Id. Assessing Officer, ledger copy of the C & F charges, harbor charges and analysis of such charges. According to him, Id. Commissioner of Income Tax (Appeals) had sought a remand report but declined to consider the remand report or the earlier letter filed with the Assessing Officer. Further, as per the Id. Authorised Representative, assessee had on 11.12.2009

filed a reply to all the queries raised by the Id. Assessing Officer, but this was also ignored. According to him, assessee was having sufficient evidence for the claim of harbor charges. Ld. Authorised Representative also submitted that assessee was facing great financial difficulties and had no means to make further payments.

3. Ld. Departmental Representative, on the other hand submitted that assessee could not show any good reason for grant of a stay.

4. We have heard both the parties, perused the orders of lower authorities and the stay petition filed by the assessee. The demand outstanding arose out of disallowance of harbor charges ₹21,60,162/-. Claim of the assessee is that it had given details of such expenses to the Id. Assessing Officer through a letter dated 29.06.2009. Ld. Commissioner of Income Tax (Appeals) had rejected this claim noting that there was no date stamp or stamp of the Income Tax Office on the copy of the letter filed by the assessee. There is no mention about the remand report also. In the assessment order, it is mentioned by the Id. Assessing Officer that the disallowance has been made for want of evidence. Considering the facts and circumstances we are of the opinion that the matter requires a fresh look by the Id. Assessing Officer. We set aside the orders of the lower authorities in so far it relates to the disallowance of harbour expense of ₹21,60,162/- claimed

by the assessee, and remit it back to the file of the Id. Assessing Officer for consideration afresh. Assessee may be given an opportunity to file evidence in support of its clam, and the Id. Assessing Officer shall proceed in accordance with law. Accordingly, we allow the appeal of the assessee for statistical purpose. Since the appeal is allowed, the stay petition filed by the assessee has become infructuous.

5. In the result, appeal of the assessee in ITA No.2386/CHNY/2018 is allowed for statistical purpose whereas its stay petition is dismissed.

Order pronounced on Friday, the 28th day of September, 2018, at Chennai.

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. GANESAN)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(अब्राहम पी. जॉर्ज)

(ABRAHAM P. GEORGE)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai

दिनांक/Dated:28th September, 2018.

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. Appellant

3. आयकर आयुक्त (अपील)/CIT(A)

5. विभागीय प्रतिनिधि/DR

2. प्रत्यर्थी/Respondent

4. आयकर आयुक्त/CIT

6. गार्ड फाईल/GF

