

आयकर अपीलीय अधिकरण , ' ए ' न्यायपीठ,चेन्नई

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, CHENNAI**

श्री एन. आर. एस .गणेशन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्यके समक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकरअपीलसं/.I.T.A. No. 1078/Chny/2018

निर्धारणवर्ष/Assessment Year : 2013-14

Assistant Commissioner of Income Tax,
Central Circle 2(3),
Chennai.

M/s. R.R. Tools P. Ltd,
Vs. No. 4, 3rd Floor, Reliance Rice Mill
Street,
Kondithope,
Chennai 600 079.

[PAN: AACDR 6915P]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

Revenue by : Shri S. Bharath, CIT
Assessee by : None

सुनवाईकीतारीख/Date of Hearing : 27.08.2018

घोषणाकीतारीख/Date of Pronouncement : 29.08.2018

आदेश/ O R D E R

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

The Revenue filed this appeal against the order of the Commissioner of Income Tax (Appeals)-18, Chennai in ITA No 238/2016-17 dated 26.12.2017 for assessment year 2013-14.

2. M/s. R R Tools Pvt. Ltd., the assessee, is one of the group companies of M/s. Surana Power Ltd. Subsequent to the search and seizure action in the M/s Surana Industries Ltd., & M/s. Surana Power Ltd., a survey operation was conducted in the assessee's case and certain materials were impounded, statements were recorded from Executive Manager etc. During the assessment, based on such material, the Assessing Officer (AO) sought the sources for the investment made by the assessee at Rs. 7 crores with M/s Gentlemen Investments Ltd. The assessee did not file any evidence. On examination, the AO found that this amount was also not reflected in the sundry debtors list of M/s. Gentlemen Investments Ltd., and hence he assessed the impugned sum as an unexplained investment. Aggrieved, the assessee filed appeal. The Ld. CIT(A) allowed the appeal.

3. Aggrieved against the order of the Ld. CIT(A), the Revenue filed this appeal pleading that the Ld. CIT(A) erred in deleting the addition of Rs. 7 crores. Despite various opportunities given by the AO and the show cause notice as to why the impugned investment should not be treated as an investment outside books of accounts etc., the assessee did not file any particulars. The Ld. CIT(A) is not justified in allowing the relief to the assessee by entertaining the additional evidences produced by the assessee before him, without giving any opportunity to the AO to examine them and hence the order passed by the Ld. CIT(A) is in contravention of provisions of rule 46A(3) etc.

4. The Ld. DR submitted that the search and seizure and survey actions were carried out to verify the genuineness of the transactions between the companies receiving contracts from M/s Surana Group and companies, the availability of funds etc. In spite of various opportunities given by the Assessing Officer, the assessee has not furnished any particulars and hence the AO made the addition. However, the Ld. CIT(A) without giving opportunity to the AO deleted the addition based upon the particulars furnished by the assessee and hence the deletion made by the Ld. CIT(A) may be restored. None appeared from the assessee's side, although the hearing notice sent to the assessee in the address mentioned in Form No 36 was returned unacknowledged.

5. We have considered the submissions made by the Ld. DR and gone through the orders of the lower authorities. The search and seizure and survey actions were carried out to examine the genuineness of the intra group transactions. In spite of giving adequate opportunity to the assessee, the assessee has not furnished the required documents or explanations before the AO. In the facts and circumstances, the Ld. CIT(A) ought to have given an opportunity to the AO, on the materials furnished by the assessee and ought to have considered the views of the AO before disposing the appeal. Since, it has not been done, we deem it fit to restore the matter to the AO for a fresh examination. The assessee shall place all the materials in support of its

contentions before the AO and comply to the requirements of the AO in accordance with law. The AO is also free to conduct appropriate enquiry as deemed fit. However, he shall furnish adequate opportunity to the assessee on the materials etc., which is likely to be used against it, and then pass a fresh order in accordance with law.

6. In the result, the Revenue's appeal is treated as allowed for statistical purposes.

Order pronounced on Wednesday, the 29th day of August, 2018 at Chennai.

Sd/-

(एन.आर.एस .गणेशन)

(N.R.S. GANESAN)

न्यायिकसदस्य/Judicial Member

Sd/-

(एसजयरामन)

(S. JAYARAMAN)

लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 29th August , 2018

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent

4. आयकरआयुक्त/CIT 5. विभागीयप्रतिनिधि/DR

3. आयकरआयुक्त) अपील(/CIT(A)

6. गार्डफाईल/GF