

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

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' 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.1565/Chny/2018

निर्धारण वर्ष / Assessment Year : 2004-05

M/s Varma Medicals,
No.28/1, Motilal Street, T. Nagar,
Chennai - 600 017.

v.

The Income Tax Officer,
Non Corporate Ward - 2(2),
Chennai.

PAN : AADFV 0470 G

(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 : 01.10.2018

घोषणा की तारीख/Date of Pronouncement : 09.10.2018

आदेश /ORDER

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -2, Chennai, dated 24.01.2018 and pertains to assessment year 2004-05.

2. There was a delay of one day in filing this appeal by the assessee. The assessee has filed a petition for condonation of delay. I have heard the Ld.counsel for the assessee and the Ld.

D.R. I find that there was sufficient cause for not filing the appeal before the stipulated time. Therefore, I condone the delay and admit the appeal.

3. The only issue arises for consideration is addition of ₹5,11,811/- in view of difference in respect of the receipt as per the TDS certificate and receipt admitted in the return of income.

4. Shri S. Sridhar, the Ld.counsel for the assessee, submitted that the CIT(Appeals) accepted the reconciliation statement filed by the assessee. However, the CIT(Appeals) found that the difference amount of ₹3,22,999/- was not substantiated by the assessee. Accordingly, the CIT(Appeals) restricted the addition to the extent of ₹3,22,999/- instead of ₹5,11,811/-. According to the Ld. counsel, there was no difference as claimed by the Assessing Officer and the CIT(Appeals). The income which does not pertain to the assessee was taken by the Assessing Officer as well as the CIT(Appeals). Therefore, according to the Ld. counsel, it needs to be verified.

5. On the contrary, Shri B. Sagadevan, the Ld. Departmental Representative, submitted that as per the TDS certificate, the total receipt was ₹15,28,950/-. However, the assessee claims that the receipt was only ₹13,40,138/-. The TDS was ₹82,687/-. This is not

in dispute. The assessee has disclosed only ₹10,17,139/- in the return of income as receipt. Therefore, according to the Ld. D.R., the matter needs to be verified by the Assessing Officer.

6. I have considered the rival submissions on either side and perused the relevant material available on record. The addition of ₹5,11,811/- by the Assessing Officer was consequent to the difference between the receipt found in TDS certificate and it was admitted by the assessee in the return of income. The CIT(Appeals) accepted the reconciliation statement filed by the assessee and still found that there was difference of ₹3,22,999/-. In the reconciliation statement, the assessee claimed the total receipt at ₹13,40,138/-. However, the TDS certificate disclosed the receipt of ₹15,28,950/-. The assessee claims that the amount taken in the receipt is not pertaining to the assessee. It is not known why the TDS was given credit in the name of assessee in case the income does not pertain to the assessee. It is for the assessee to offer proper explanation. Therefore, this Tribunal is of the considered opinion that the matter needs to be reconsidered as rightly submitted by the Ld. D.R. Accordingly, orders of both the authorities below are set aside and the entire issue is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-

examine the matter afresh in the light of the TDS certificate and other 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.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

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

चेन्नई/Chennai,

दिनांक/Dated, the 9th October, 2018

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-2, Chennai-34
4. Principal CIT, Chennai-1, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.