

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.2587/Chny/2017

निर्धारण वर्ष / Assessment Year : 2013-14

Smt. Jayalakshmi,
No.21, Solayappan Street,
Old Washermanpet,
Chennai - 600 003.

v. The Income Tax Officer,
Non Corporate Ward - 4(2),
Chennai - 600 006.

PAN : ACUPJ 2737 P

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri D. Anand, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri B. Sagadevan, JCIT

सुनवाई की तारीख/Date of Hearing : 03.10.2018

घोषणा की तारीख/Date of Pronouncement : 11.10.2018

आदेश /O R D E R

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -5, Chennai, dated 16.08.2017 and pertains to assessment year 2013-14.

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. Shri D. Anand, the Ld.counsel for the assessee, submitted that the only issue arises for consideration is with regard to the addition made by the Assessing Officer in respect of deposits made in the bank account. Referring to the order of the CIT(Appeals), more particularly at para 5.2 and 6.1, the Ld.counsel submitted that the CIT(Appeals) found that the loan debtors had not committed in their respective letters dated 11.03.2016 that they have paid in cash. Therefore, according to the Ld. counsel, the matter needs to be re-examined whether the loan debtors have confirmed the fact of payment in cash has to be examined by the Assessing Officer. Therefore, the Ld.counsel submitted that the matter may be remitted back to the file of the Assessing Officer.

4. On the contrary, Shri B. Sagadevan, the Ld. Departmental Representative, submitted that the Assessing Officer by issuing notice under Section 133(6) of the Income-tax Act, 1961 (in short 'the Act') specifically asked the loan debtors to confirm whether it was paid in cash. However, they have not committed anything in

their respective letters. Referring to the observation made by the CIT(Appeals) at para 6.3 of his order, the Ld. D.R. pointed out that the transaction of loan repayment was not reflected in the bank account of M/s New Star Enterprises. Therefore, according to the Ld. D.R., apparently it is outside the books of account, however, the matter may be re-examined by the Assessing Officer.

5. I have considered the rival submissions on either side and perused the relevant material available on record. The only issue arises for consideration is deposits made in the bank account. The loan debtors were found non-committed with regard to payment in cash. The Revenue claims that the transaction was outside the books. Therefore, whether the loan debtors have paid the amount in cash or not needs to be examined. Accordingly, the 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 in the light of the material that may be produced by the assessee and thereafter decide the issue afresh in accordance with law, after giving a reasonable opportunity to the assessee.

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

Order pronounced in the court on 11th October, 2018 at Chennai.

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

चेन्नई/Chennai,
दिनांक/Dated, the 11th October, 2018
Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-5, Chennai
4. Principal CIT-9, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.