

आयकर अपीलिय अधिकरण, “बी” न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL ‘B’ BENCH, CHENNAI
श्री अब्राहम पी. जॉर्ज, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष
Before Shri Abraham P. George, Accountant Member &
Shri Duvvuru RL Reddy, Judicial Member

आयकर अपील सं./I.T.A.No.2586/Chny/2017
निर्धारण वर्ष/Assessment Year:2011-12

M/s. Dhanya Infrastructure Pvt. Ltd.,
57/2b, Sai Subhodaya, East Coast
Road, Thiryanmiyur, Chennai 600 041.

The Income Tax Officer,
Vs. Corporate Ward 1(1),
Chennai 600 006.

[PAN:AACCD8253B]

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri D. Anand, Advocate
प्रत्यर्थी की ओर से/Respondent by : Dr. S. Pandian, JCIT
सुनवाई की तारीख/ Date of hearing : 03.10.2018
घोषणा की तारीख /Date of Pronouncement : 24.10.2018

आदेश /O R D E R

PER DUVVURU RL REDDY, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 5, Chennai dated 17.08.2017 relevant to the assessment year 2011-12. Besides, challenging the confirmation of the disallowance of interest claimed under section 57 of the Income Tax Act, 1961 [“ Act” in short], the Id. Counsel for the assessee also challenged the ex-parte order passed by the Id. CIT(A).

2. Brief facts of the case are that the assessee filed return of income declaring total income at ₹.6,68,790/-/-. The case was selected for scrutiny

and verified the books of accounts as furnished by the assessee against statutory notices. During the course of assessment proceedings, the Assessing Officer disallowed the deduction claimed under section 57 of the Act and completed the assessment by assessing total income of the assessee at ₹. 2,57,31,358/-

3. The assessee carried the matter in appeal before the Id. CIT(A). Since there was no representation from assessee's side when appeal was fixed for hearing or any adjournment petition filed the assessee, after considering the facts of the case, the Id. CIT(A) confirmed the disallowance and dismissed the appeal of the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that with regard to the issue of allowability of deduction claimed under section 57 of the Act, the assessee has determined this interest income by setting off the interest income received during the year against the interest paid during the year and therefore, the assessee is eligible to claim deduction under section 57 of the Act. Due to unavoidable circumstances, the assessee could not put its appearance before the Id. CIT(A) and thus prayed that the assessee may be given one more opportunity of being heard for furnishing complete details before the Id. CIT(A) for adjudication on merits.

5. Per contra, the Id. DR vehemently argued that the assessee was given sufficient opportunities to represent its case before the Id. CIT(A) from October 2015 to August, 2017 and objected for giving any more opportunity.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. While verifying the genuineness of the deduction claimed by the assessee under section 57 of the Act, the Assessing Officer noticed that the assessee had incurred interest expenditure of ₹.2,47,28,189/- and received interest from other parties to the tune of ₹.2,50,62,568/-. On verification of bank statement, the Assessing Officer observed that many of the loan transactions pertain to earlier year and not related to the current year. As it is one of the conditions to be satisfied for claiming deduction under section 57 of the Act that the expenditure should be incurred in the accounting year, and the same is not satisfied by the assessee, the Assessing Officer disallowed the claim of deduction under section 57 of the Act and brought to tax. The assessee carried the matter in appeal before the Id. CIT(A). Despite giving nearly eleven opportunities, none appeared on behalf of the assessee or any adjournment petition filed before the Id. CIT(A). Since the assessee could not substantiate that the interest expenditure was expended wholly and exclusively for the purpose of earning the interest income and no specific written submission filed or put its appearance on the dates of hearing fixed,

the Id. CIT(A) confirmed the disallowance and dismissed the appeal filed by the assessee. Before us, the Id. Counsel for the assessee prayed that the assessee may be given one more opportunity of being heard to the assessee for substantiating its claim. In view of the above and to meet the ends of natural justice, we direct the Id. CIT(A) to give one more opportunity of being heard to the assessee for substantiating its claim and decide the issue afresh in accordance with law.

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

Order pronounced on the 24th October, 2018 at Chennai.

Sd/-
(ABRAHAM P. GEORGE)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, the 24.10.2018

Vm/-

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.