

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' 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. 813/Chny/2017
निर्धारण वर्ष/Assessment Year:2008-09

The Deputy Commissioner of
Income Tax, Corporate Circle 1(1),
Chennai – 34.

M/s. Arun Plasto Moulders India
Vs. Pvt. Ltd., 3C, Phase III, Sidco
Industrial Estate, Ekkatuthangal,
Chennai 600 097.

[PAN:AAECA8066H]

(Appellant)

(Respondent)

अपीलार्थी की ओर से / Appellant by : Shri AR.V. Sreenivasan, JCIT
प्रत्यर्थी की ओर से/Respondent by : Shri S. Sridhar, Advocate
सुनवाई की तारीख/ Date of hearing : 23.10.2018
घोषणा की तारीख /Date of Pronouncement : 30.10.2018

आदेश / O R D E R

PER DUVVURU RL REDDY, JUDICIAL MEMBER:

This appeal filed by the Revenue is directed against the order of the Commissioner of Income Tax (Appeals) 1, Chennai dated 31.01.2017 relevant to the assessment year 2008-09. The only effective ground raised in the appeal of the Revenue is that the Id. CIT(A) has erred in deleting the disallowance of mould amortization charges to the tune of ₹.1.43 crores.

2. Facts leading to the issue are that the assessee has debited a sum of ₹.1,43,08,556/- towards mould amortization charges in the profit and loss

account claiming it as a revenue expenditure. After considering the submissions of the assessee, the Assessing Officer has observed that the mould was supplied to the assessee by Hindustan Lever Ltd., (HLL) and the assessee had to pay a fixed amount of money for every component sold to them. The Assessing Officer further observed that the assessee has not deducted any tax at source on this lease rentals paid to HLL as per section 194I of the Act, thereby attracting the provisions of section 40(a)(ia) of the Act. Further, in Form 3CD accompanying the original return, there was no mention in the enclosure 3 that the assessee has not deducted TDS for the lease rentals paid towards the moulds supplied by the HLL. Thus, on both counts, the Assessing Officer disallowed the expenditure of ₹.1,43,08,556/- and added back to the total income of the assessee.

3. The assessee carried the matter in appeal before the Id. CIT(A). By considering various written submissions of the assessee as well as by following the giving effect to the order of the Tribunal relevant to the assessment year 2009-10, the Id. CIT(A) decided the issue in favour of the assessee.

4. Aggrieved, the Revenue is in appeal before the Tribunal. The Id. DR has submitted that the moulds have enduring benefit as the same are not consumed within a year, the Id. CIT(A) erroneously held that the mould amortization charges are not in the nature of capital expenditure. While

following the giving effect to the order of the Tribunal for the assessment year 2009-10, the Id. CIT(A) overlooked the part addition made by the Assessing Officer while passing order under section 143(3) r.w.s. 254 of the Act and pleaded that the order of the Id. CIT(A) should be set aside.

5. On the other hand, the Id. Counsel for the assessee strongly supported the order passed by the Id. CIT(A) on this issue.

6. We have heard both sides, perused the materials available on record and gone through the orders of authorities below. Similar issues was subject matter in appeal before the Tribunal for the assessment year 2009-10 and vide its order in I.T.A. No. 1274/Mds/2013 dated 25.02.2015, the Tribunal remitted the matter back to the file of the Assessing Officer for de novo consideration. Accordingly, vide order under section 143(3) r.w.s. 254 of the Act dated 31.03.2016 for the assessment year 2009-10, the Assessing Officer allowed the expenses in part and part addition was made being a provision, which appears to have been not considered by the Id. CIT(A) while deciding the appeal for the assessment year under consideration. Accordingly, we remit the issue back to the file of the Assessing Officer to examine the issue in line with the order passed by the Assessing Officer under section 143(3) r.w.s. 254 of the Act dated 31.03.2016 and decide the issue afresh in accordance with law after allowing an opportunity of being heard to the assessee.

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

Order pronounced on the 30th October, 2018 at Chennai.

Sd/-
(ABRAHAM P. GEORGE)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, the 30.10.2018

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.