

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
' B' BENCH : CHENNAI

श्री अब्राहमपी.जॉर्ज, लेखा सदस्य एवं
श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष

BEFORE SHRI ABRAHAM P GEORGE, ACCOUNTANT MEMBER
AND SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं./I.T.A.No.2080/Chny/2018
निर्धारण वर्ष /Assessment year :2004-05

M/s.Manali Petrochemicals Ltd., Vs. The Deputy Commissioner of
Pooneri High Road, Manali, Income Tax, LTU(Appeals),
Chennai 600 068. Chennai 600 034.
[PAN AAACM 3404 D]
(अपीलार्थी/Appellant) (प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr.R.Vijayaraghavan, Advocate
प्रत्यर्थी की ओर से /Respondent by : Mr.Guru Bashyam,JCIT,D.R
सुनवाई की तारीख/Date of Hearing : 02-01-2019
घोषणा की तारीख /Date of Pronouncement : 02-01-2019

आदेश / ORDER

PER GEORGE MATHAN , JUDICIAL MEMBER

This is an appeal filed by the assessee against the order of the Commissioner of Income-tax (Appeals)-5, Chennai in appeal No.126/CIT(A)-5/2014-15 dated 07.05.2018 for the assessment year 2004-05.

2. Mr.R.Vijayaraghavan represented on behalf of the Assessee and Mr.Guru Bashyam represented on behalf of the Revenue.

3. It was submitted by Id.A.R that the Ld.CIT(A) dismissed the assessee's appeal holding that the assessee has not filed the proper order against which the appeal was liable to be filed before the Ld.CIT(A). The Id.A.R drew our attention to the Order giving effect to the order of the CIT(Appeals) passed by the Id. Assessing Officer dated 21.04.2014. It was a submission that in the last line of the said order, the Id. Assessing Officer has specifically mentioned "thus, directions of the Ld.CIT(A), LTU, Chennai contained in the order No.9/12-13/LTU(A) dated 24.01.2014 is complied with". It was a submission that there is no other order. It was a submission that Ld.CIT(A) may be directed to dispose the appeal on merits. In reply, the Id.D.R vehemently supported the order of the CIT(Appeals).

4. We have considered the rival submissions. A perusal of the Order giving effect to the order of the CIT(Appeals) dated 21.04.2014 shows that the Id. Assessing Officer has given effect to two orders of the Ld.CIT(A), first one bearing ITA No.82/11-12/LTU(A) dated 24.01.2014 in respect of the interest charged u/s.234B of the Act and the second bearing ITA No.9/12-13/LTU(A) dated 24.01.2014. This being so, admittedly the issue in the appeal before the Ld.CIT(A), does

arise out of the order of Id. Assessing Officer giving effect to the order of the CIT(Appeals) dated 21.04.2014. This being so, the order of the CIT(Appeals) dated 07.05.2018 in ITA No.126/CIT(A)-5/2014-15 is set aside and the issues raised in this appeal are restored to the file of Id.CIT(A) for re-adjudication on merits.

5. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court after conclusion of hearing on 02nd January, 2019, at Chennai.

Sd/-

(अब्राहमपी.जॉर्ज)

(ABRAHAM P GEORGE)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai

दिनांक/Dated: 02nd January, 2019.

K S Sundaram

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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