

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.1884/Chny/2017

निर्धारण वर्ष /Assessment year : 2013-14

Income Tax officer,
Corporate Ward-2,
Madurai.

Vs. M/s.Madras suspensions Ltd.,
Door No.3,3rd Cross street,
DSP Nagar, Bye Pass Road,
Madurai 625 016.

[PAN AABCM 2301 A]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr.Guru Bashyam, JCIT,D.R
प्रत्यर्थी की ओर से /Respondent by : Mr.N.V.Balaji, Advocate

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 Revenue against the order of
the Commissioner of Income-tax (Appeals)-1, Madurai in appeal

No.0085/2016-17 dated 17.05.2017 for the assessment year 2013-14.

2. Mr.Guru Bashyam represented on behalf of the Revenue, and Mr.N.V.Balaji represented on behalf of the Assessee.

3. It was submitted by Id.D.R that the issue in this appeal was against the action of the Ld.CIT(A) in deleting the addition made by Id. Assessing Officer by invoking Section 41(1) of the Act in respect of an amount of ₹2 crores waived by TamilNad Mercantile Bank Limited representing Term Loan for the purchase of machinery and for building construction. It was a submission that Ld.CIT(A) has relied upon the decision of Hon'ble Madras High Court in the case of Iskraemeco Regent Ltd. Vs. CIT in [2011] 331 ITR 317(Mad.) to grant the assessee relief. It was a further submission that the said decision is now stood reversed by the Hon'ble Madras High Court in the case of CIT vs. Ramaniyam Homes (P.) Ltd., reported in [2016] 384 ITR 530(Mad.). It was a prayer by Id.D.R that the order of the CIT(Appeals) was liable to be reversed.

4. In reply, the Id.A.R submitted that the issue raised in this appeal was now settled by the decision of Hon'ble Apex Court in the case of Commissioner Vs. Mahindra And Mahindra Ltd., in [2018] 302 CTR 213(SC) wherein the Hon'ble Supreme Court has categorically held in para 17 that:-

"17. To sum up, we are not inclined to interfere with the judgement and order passed by the High Court in view of the following reasons:

(a) Section 28(iv) of the IT Act does not apply on the present case since the receipts of Rs.57,74,064/- are in the nature of cash or money.

(b) Section 41(1) of the IT Act does not apply since waiver of loan does not amount to cessation of trading liability. It is a matter of record that the Respondent has not claimed any deduction u/s.36(1)(iii) of the IT Act qua the payment of interest in any previous year."

It was a prayer that the order of the CIT(Appeals) is liable to be upheld.

5. We have considered the rival submissions. In view of the principles laid down in the decisions of the Hon'ble Supreme Court in the cases of Commissioner Vs. Mahindra And Mahindra Ltd., referred to supra, wherein the Hon'ble Supreme Court has categorically held that Section 41(1) of the IT Act does not apply since waiver of loan

does not amount to cessation of trading liability, the Tribunal is of the considered opinion that the findings of the Ld.CIT(A) on this issue stand confirmed.

6. In the result, the appeal of the Revenue is dismissed.

Order pronounced on 02 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: 02 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 |