

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री इंटूरी रामा राव, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1563/Chny/2018

निर्धारण वर्ष /Assessment Year : 2014-15

Smt. Balasubramanian Manju,
M.R. Garden Building,
No.18, Kannan Street,
Kadaperi Village,
Tambaram Sanatorium,
Chennai - 600 047.

v. The Assistant Commissioner of
Income Tax,
Non-Corporate Circle – 9(1),
Chennai - 600 034.

PAN : ALBPM 0301 L

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri AR.V. Sreenivasan, JCIT

सुनवाई की तारीख/Date of Hearing : 31.12.2018

घोषणा की तारीख/Date of Pronouncement : 02.01.2019

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -10, Chennai, dated 28.03.2018 and pertains to assessment year 2014-15.

2. Shri S. Sridhar, the Ld.counsel for the assessee, submitted that the CIT(Appeals) confirmed the disallowance of ₹5,46,72,875/-

only on the ground that the assessee had not appeared before him. According to the Ld. counsel, the appeal was not disposed of on merit.

3. We heard Shri AR.V. Sreenivasan, the Ld. Departmental Representative also. We have perused the order of the CIT(Appeals). The CIT(Appeals) found that the assessee did not cooperate during the scrutiny proceeding and she did not appear before him when the appeal was posted for hearing on several dates. The fact remains that the CIT(Appeals) being the first appellate authority and having jurisdiction coterminous with that of the Assessing Officer, is expected to call for records from the Assessing Officer and reappraise the material available on record and decide the issue in accordance with law. The non-appearance of the assessee before the CIT(Appeals) will not empower the CIT(Appeals) to dismiss the appeal. A perusal of the impugned order of the CIT(Appeals) shows that he has not reappraised the material available on record and there was no discussion in the impugned order on merit.

4. This Tribunal time and again found that the CIT(Appeals) has no authority or power to dismiss the appeal for non-appearance of

the assessee. In case the assessee has not appeared before him or failed to cooperate with the CIT(Appeals), it is open to the CIT(Appeals) to call for relevant record from the Assessing Officer to reconsider the material available on record and dispose the appeal on merit. Such an exercise was not done by the CIT(Appeals). Therefore, this Tribunal is unable to uphold the order of the CIT(Appeals). Accordingly, the order of the CIT(Appeals) is set aside and the entire issue is remitted back to the file of the CIT(Appeals). The CIT(Appeals) shall re-examine the matter in the light of the material available on record. The CIT(Appeals) shall give a reasonable opportunity to the assessee by issuing necessary notice of hearing. In case the assessee fails to appear before the CIT(Appeals) in response to the notice, it is open to the CIT(Appeals) to call for relevant record from the Assessing Officer and reappreciate the material available on record and pass a speaking order with regard to issues raised by the assessee.

5. With the above observation, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the court on 2nd January, 2019 at
Chennai.

sd/-

(इंटूरी रामा राव)

(Inturi Rama Rao)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 2nd January, 2019.

Kri.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-10, Chennai-34
4. Principal CIT-7, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.