

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री जॉर्ज माथन, न्यायिक सदस्य एवं
श्री इंटूरी रामा राव, लेखा सदस्य के समक्ष

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2429/Chny/2018

निर्धारण वर्ष /Assessment Year: 2014-15

M/s.Bindal Manufacturing Co. –
(P) Ltd.,
12/2, Ground Floor,
Venkatachalam Lane,
Rattan Bazar, Chennai-600 003.

Vs. The Asst. Commissioner –
of Income Tax (OSD),
Corporate Range-1,
Chennai-34.

[PAN: AAECB 2626 A]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr.N.Vijay Kumar, CA

प्रत्यर्थी की ओर से /Respondent by

: Mr.AR.V.Sreenivasan, JCIT

सुनवाई की तारीख/Date of Hearing

: 18.12.2018

घोषणा की तारीख /Date of Pronouncement

: 26.12.2018

आदेश / O R D E R

PER INTURI RAMA RAO, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee-company directed against the Order of the learned Commissioner of Income Tax (Appeals)-1, Chennai, dated 29.06.2018 for the AY 2014-15.

2. The appellant raised the following grounds of appeal:

1. For that the order of the Commissioner of Income Tax (Appeals) is contrary to law, facts and circumstances of the case to the extent prejudicial to the interest of the appellant and at any rate is opposed to the principles of equity, natural justice and fair play.
2. For that the Commissioner of Income Tax (Appeals) failed to appreciate that the order of the Assessing Officer is without jurisdiction.

3. *For that the Commissioner of Income Tax (Appeals) erred in disposing off the appeal ex parte for the reason that there was no appearance when the case was posted for hearing.*
4. *For that the Commissioner of Income Tax (Appeals) failed to appreciate that the appellant could have derived no benefit by not appearing before her for the hearing and that the same could not have been the intent of the appellant.*
5. *For that the appellant had reasonable cause for not appearing before the Commissioner of Income Tax (Appeals) when the case was posted for hearing before her.*
6. *For that the re-assessment is bad in law.*
7. *For that the re-opening of assessment was not based on any fresh tangible material.*
8. *For that the Assessing Officer erred in not complying with the provisions of section 68 of the Income Tax Act, 1961.*
9. *For that the Commissioner of Income Tax (Appeals) has erred in upholding the addition of interest paid of Rs.1,20,000/- made by the Assessing Officer as bogus expenses.*
10. *For that the Commissioner of Income Tax (Appeals) failed to appreciate that the loan transaction was genuine and was supported by evidences.*

PRAYER

For these grounds and such other grounds that may be adduced before or during the hearing of the appeal, it is prayed that this Hon'ble Tribunal may be pleased to

- (i) Quash the order of re-assessment or*
- (ii) allow the interest paid on loan or*
- (iii) pass such other orders as this Hon'ble Tribunal may deem fit.*

3. Briefly, the facts of the case are that the appellant is a company engaged in the business of trading in industrial self adhesive palates of plastic, paper & Flex. The return of income for the AY 2014-15 was filed on 26.09.2014 disclosing income of Rs.8,65,630/-. There is no scrutiny assessment against the said return of income. However, subsequently based on the information received from Investigation Wing of the Department that the appellant received bogus accommodation entries from the concerns managed, controlled and operated by one Mr.Vipul Vidur Bhatt, Mumbai issued a notice u/s.148 on 02.11.2016. In response to the same, the appellant filed a return of income on 09.10.2017 same as original return of income against the said return of income, the

assessment was completed by the Asst. Commissioner of Income Tax (OSD), Corporate Range-1, Chennai, [hereinafter called as 'Assessing Officer' (in short "AO")] vide order dated 27.11.2017 passed u/s.143(3) r.w.s.147 of the Income Tax Act, 1961 at a total income of Rs.8,65,630/-. While doing so, the AO has disallowed the interest claimed as deduction on the loans from M/s.Shyam Alcohol & Chemicals Ltd., said to be bogus transaction.

4. Being aggrieved, an appeal was preferred before the Ld.CIT(A) who vide impugned Order dated 29.06.2018 had dismissed the appeal ex-parte after granting the opportunity to the appellant. Being aggrieved, the appellant is before us in the present appeal. It is submitted that the appellant-company could not cause appearance before the Ld.CIT(A) on account of the reasons which are beyond the control of the appellant and therefore, the matter may be set-aside to the Ld.CIT(A) for fresh adjudication. On the other hand, Ld.DR has no serious objection for remand of the matter to the Ld.CIT(A). In these circumstances, we remit the matter back to the file of the Ld.CIT(A) for fresh adjudication in accordance with law after affording an opportunity of being heard to the appellant.

5. In the result, the appeal filed by the appellant is partly allowed for statistical purposes.

Order pronounced on the 26th December, 2018 in Chennai.

Sd/-
(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

Sd/-

(इंटूरी रामा राव)

(INTURI RAMA RAO)

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 26th December, 2018.

TLN

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