

आयकर अपीलिय अधिकरण, “डी” न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL ‘D’ BENCH, CHENNAI
श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष
Before Shri A. Mohan Alankamony, Accountant Member &
Shri Duvvuru RL Reddy, Judicial Member

आयकर अपील सं./I.T.A.No.3062/Chny/2017
निर्धारण वर्ष/Assessment Year:2005-06

M/s. Pradeep Stainless India P. Ltd.,
C-3, Phase II, 3rd Main Road, MEPZ
Tambaram, Chennai 600 045.

Vs. The Assistant Commissioner of
Income Tax,
Corporate Circle 5(2),
Chennai.

[PAN: AADCP2554Q]

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri S. Murali Mohan, JCIT
सुनवाई की तारीख/ Date of hearing : 24.12.2018
घोषणा की तारीख /Date of Pronouncement : 31.12.2018

आदेश /O R D E R

PER DUVVURU RL REDDY, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 3, Chennai dated 29.09.2017 relevant to the assessment year 2005-06.

2. The appeal filed by the assessee is delayed by 15 days, for which, the assessee has filed petition in support of an affidavit for condonation of the delay, to which; the Id. DR has not raised any

serious objection. Consequently, since the assessee was prevented by sufficient cause, the delay of 15 days in filing of the appeal stands condoned and the appeal is admitted for adjudication.

3. Brief facts of the case are that this is second round of litigation. Vide order dated 20.11.2015 in I.T.A. No. 1750/Mds/2013, the Tribunal set aside the order of the Id. CIT(A) and directed the Id. CIT(A) to adjudicate the issue on merits by holding that the Assessing Officer has rightly reopened the assessment under section 147 of the Income Tax Act, 1961 ["Act" in short]. After considering the reply to the notice issued by the Id. CIT(A), the appeal filed by the assessee was dismissed against which the assessee preferred further appeal before the Tribunal. Besides raising various grounds in the grounds of appeal, the Id. Counsel for the assessee has mainly argued that the Id. CIT(A) has not afforded sufficient opportunity of being heard and simply confirmed the addition made by the Assessing Officer and prayed that the assessee should be given an opportunity to present its case before the Id. CIT(A). On the other hand, the Id. DR supported the order passed by the Id. CIT(A).

4. We have heard both the sides, perused the materials available on record and gone through the orders of the authorities below. Against the notice of hearing issued by the Id. CIT(A), the Id. Authorized Representative filed a letter, in which, it was stated that against the order of the Tribunal dated 20.11.2015, the assessee preferred further appeal before the Hon'ble Madras High Court and the case has been admitted for answering substantial question of law and the notice has been ordered to other side and thus, made a prayer to keep the proceedings in abeyance. By holding that completion of income tax proceedings would not, in any way, hamper the appeal proceedings filed before the Hon'ble High Court, the Id. CIT(A) proceeded to decide the case on merits. However, we find that while proceeding to decide the case on merits, the Id. CIT(A) has not issued any notice of hearing to the assessee. In the absence of any submissions of the assessee on merits of the case, the Id. CIT(A) confirmed the findings of the Assessing Officer. Since we are of the considered opinion that the assessee was not given sufficient opportunity of being heard before confirming the additions made by the Assessing Officer, we set aside

the order of the Id. CIT(A) and direct him to afford an opportunity of being heard to the assessee to present its case on merits.

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

Order pronounced on the 31st December, 2018 at Chennai.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, the 31.12.2018

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.