

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'C' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री अब्राहम पी.जॉर्ज, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2318/Chny/2018

निर्धारण वर्ष /Assessment Year : 2014-15

M/s Ketan Dineshchandra Mehta,
143, Broadway, Parrys,
Chennai - 600 108.

v. The Income Tax Officer,
Non Corporate Ward 11(3),
Chennai - 600 006.

PAN : AAFPM 5926 L

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri K. Balasubramanian, Advocate

प्रत्यर्थी की ओरसे / Respondent by : Shri V.M. Mahidar, JCIT

सुनवाई की तारीख/Date of Hearing : 20.12.2018

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) -13, Chennai, dated 26.06.2018 and pertains to assessment year 2014-15.

2. Shri K. Balasubramanian, the Ld.counsel for the assessee, submitted that the Assessing Officer, placing reliance on the report

received from the Investigation Wing of the Department at Kolkata, denied exemption under Section 10(38) of the Income-tax Act, 1961 (in short 'the Act') and made addition under Section 68 of the Act. According to the Ld. counsel, the assessee has purchased 3000 shares of Blazon Marbles Limited for ₹5,250/-. The assessee sold the same on 21.03.2014 and 26.03.2014 for a total consideration of ₹6,74,058.1. According to the Ld. counsel, the assessee declared long term capital gains of ₹6,65,797/- and claimed exemption under Section 10(38) of the Act. The Assessing Officer, however, disallowed the claim of the assessee based upon the investigation report said to be received from the Investigation Wing of the Department at Kolkata. The Ld.counsel further submitted that the Assessing Officer has not furnished copies of investigation report to the assessee, therefore, the matter may be remitted back to the file of the Assessing Officer.

3. We heard Shri V.M. Mahidar, the Ld. Departmental Representative also. Admittedly, the Assessing Officer and the CIT(Appeals) placed reliance on the investigation report said to be received from the Investigation Wing of the Department at Kolkata. The copy of the said report was not furnished to the assessee. The

proceeding before the Assessing Officer being a judicial proceeding, the Assessing Officer is expected to furnish all the material relied upon by him to the assessee. Unfortunately, such an exercise was not done by the Assessing Officer. Therefore, the orders of both the authorities below are set aside and the matter is remitted back to the file of the Assessing Officer. The Assessing Officer is directed to furnish copies of the report of Investigation Wing of the Department at Kolkata and other material relied upon by him and thereafter decide the issue afresh in accordance with law, after giving a reasonable opportunity to the assessee.

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

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

sd/-
(अब्राहमपी.जॉर्ज)
(Abraham P. George)
लेखा सदस्य/Accountant Member

sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 2nd January, 2019.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-13, Chennai
4. Principal CIT-8, Chennai-34
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.