

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' 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.1013/Chny/2019
निर्धारण वर्ष /Assessment Year: 2014-15

Shri Arunachalam Anbuvaran,
No.7,13th Cross Street, Shastri
Nagar,Adyar,Chennai.600020.

Vs. Income Tax Officer,
Non-Corporate Ward 15(1),
Chennai.

[PAN: AEQPA 5355 N]

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr. Saroj Kumar Parida,
Advocate

प्रत्यर्थी की ओर से /Respondent by

: Mr.R.Clement Ramesh Kumar,
Addl. C.I.T D.R

सुनवाई की तारीख/Date of Hearing

: 29.07.2019

घोषणा की तारीख /Date of Pronouncement

: 31.07.2019

आदेश / O R D E R

PER INTURI RAMA RAO, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the Order of the Commissioner of Income Tax (Appeals)-15, Chennai, dated 29.01.2019 for the assessment year 2014-15.

2. The assessee raised the following grounds of appeal:

1. *The order of the Commissioner of Income-tax (Appeals) is contrary to law, facts and circumstances of the case.*
2. *The Commissioner of Income tax (Appeals) erred in dismissing the appeal without giving sufficient opportunity of being heard to the appellant.*
3. *The Commissioner of Income tax (Appeals) erred in confirming the addition of Rs.8,15,8581 - to the total income being the amount shown as sundry creditor in the balance sheet.*
 - 3.1 *The Commissioner of Incometax (Appeals) ought to have appreciated that the Assessee was a Partner in a Firm called Mathivanan Agency and the balance of Rs.8, 15,8581 - represent the amount due to the firm by the Assessee. The firm was dissolved and the Assessee took over the firm with it's Assets and Liabilities. The balance of Rs.8,15,8581 - is only a capital to him and not a loan.*
4. *The Commissioner of Income tax (appeals) erred in confirming a sum of Rs.90,66,543/- as unexplained cash credits u/s.68 of the Act.*
 - 4.1 *The Commissioner of Income tax (appeals) ought to have appreciated that assessee vide letter dt 15.12.2016 furnished the ledger accounts of the loan parties; Name, address and PAN and Reconciliation of loans received with bank statement.*
 - 4.2 *The Commissioner of Income tax (Appeals) ought to have appreciated that assessee has explained the nature and source of credits found in the books. Merely because some of the creditors did not respond to the notice u/s.133(6) the same cannot be treated as unexplained credits in the hands of assessee.*
 - 4.3 *The Commissioner of Income-tax (Appeals) ought to have appreciated that the Assessee has obtained the loan through a mediator who had taken commission from the Assessee. All the loans carry interest which was paid by account payee cheque.*
 - 4.4 *The Commissioner of Income tax (Appeals) ought to have granted further time for getting the confirmation from the creditors.*

3. The brief facts of the case are that the Appellant-assessee namely Shri Arunachalam Anbuvaran, is an individual, a dealer of Indian Oil Corporation and is in the business of construction of residential projects. The return of income for the assessment year 2014-15 was filed on 30.11.2014 declaring total income of Rs.17,69,950/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Non Corporate ward 15(1),Chennai (hereinafter referred as 'AO') vide order dated 28.12.2016 passed u/s.143(3) of the Income Tax Act, 1961 (in short 'the Act') at total income of Rs.1,16,89,280/- after making certain additions of Rs.90,50,000/- as unexplained cash credits u/s.68 of the Act, and of Rs.8,15,8581/- to the total income being the amount shown as sundry creditor in the balance sheet. Being aggrieved by additions made by Assessing Officer, the assessee preferred an appeal before the Id.CIT(A), who vide his order dismissed the appeal exparte. Being aggrieved with the order of the Id.CIT(A), the assessee is before us in the present appeal.

4. It is submitted by Id.AR before us that when the appeal was posted for 21.01.2019 for disposal, an adjournment petition was filed before Id.CIT(A) and despite the adjournment petition, the Id.CIT(A) proceeded with the disposal of the matter without giving sufficient opportunities. It is submitted that the matter may be restored to the file of Id.CIT(A) for fresh consideration in accordance with law.

5. On the other hand, Senior Id.DR has no serious objections.
6. We have heard the rival contentions and perused the material available on record. Considering the submissions of both the parties, we are of the considered opinion that the matter remission back to the file of Id.CIT(A) for denovo adjudication in accordance with law after giving in reasonable opportunity of being heard to the assessee.
6. In the result, appeal of assessee is partly allowed for statistical purposes.

Order pronounced on the 31st July, 2019 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: 31st July, 2019.

K S Sundaram

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