

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री एस. जयरामन, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.2841, 2842, 2843, 2844, 2845, 2846 &
2847/Chny/2018

निर्धारण वर्ष /Assessment Years : 2009-10 to 2015-16

Shri J. Dinakaran,
Old No.7, New No.21,
Thirunavukarasu Street,
Perambur, Chennai - 600 011.

The Assistant Commissioner of
Income Tax,
v. Central Circle – 3(2),
Chennai - 600 034.

PAN : AIGPD 7898 D

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA Nos.3100, 3101, 3102, 3103, 3104 & 3105/Chny/2018

निर्धारण वर्ष /Assessment Years: 2009-10, 2011-12, 2012-13, 2013-14, 2014-15
& 2015-16

The Deputy Commissioner of
Income Tax,
Central Circle – 2(4),
Chennai - 600 034.

(अपीलार्थी/Appellant)

Shri J. Dinakaran,
v. Old No.7, New No.21,
Thirunavukarasu Street, Perambur,
Chennai - 600 011.

(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by : Shri Pranay J. Shah, ACA

राजस्व की ओर से/Revenue by : Shri S. Bharath, CIT

सुनवाई की तारीख / Date of Hearing : 24.07.2019

घोषणा की तारीख / Date of Pronouncement : 01.08.2019

आदेश / O R D E R

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

Both the assessee and the Revenue have filed the appeals against the respective orders of the Commissioner of Income Tax (Appeals) – 19, Chennai. When the assessee has filed appeals for the assessment years 2009-10 to 2015-16, the Revenue has filed appeals for the assessment years 2009-10, 2011-12, 2012-13, 2013-14, 2014-15 and 2015-16. Since common issue arises for consideration in all these appeals, we heard these appeals together and disposing of the same by this common order.

2. There was a delay of 8 days in filing the appeals by the Revenue. The Revenue has filed petitions for condonation of delay. We have heard the Ld. Departmental Representative and the Ld. representative for the assessee. We find that there was sufficient cause for not filing the appeals before the stipulated time. Therefore, we condone the delay and admit the appeals.

3. We heard Shri Pranay J. Shah, the Ld. representative for the assessee and Shri S. Bharath, the Ld. D.R. During the course of hearing, it was brought to the notice of the Bench by the Ld. D.R.

that the assessee has filed additional material before the CIT(Appeals) during the course of appellate proceeding. The CIT(Appeals) without giving any opportunity to the Assessing Officer entertained the same. Therefore, according to the Ld. D.R., there was violation of Rule 46A of the Income-tax Rules, 1962. This fact is not disputed by the assessee. The Ld. representative for the assessee submitted that even in the assessee's appeals some of the materials filed by the assessee were not considered by both the Assessing Officer as well as the CIT(Appeals). In view of the above factual situation, both the Ld. representative for the assessee and the Ld. D.R. prayed that the matter may be remitted back to the file of the Assessing Officer for reconsideration.

5. Having heard the Ld. representative for the assessee and the Ld. D.R., this Tribunal is of the considered opinion that as pointed out by the Ld. representative for the assessee and the Ld. D.R., there is a clear violation of Rule 46A of the Income-tax Rules, 1962 in entertaining the additional evidence by the CIT(Appeals). We have carefully gone through the provisions of Rule 46A. Whenever additional evidence is filed by the assessee before the CIT(Appeals), it is incumbent upon the CIT(Appeals) to give an

opportunity to the Assessing Officer to controvert the content of the additional material. In this case, no such opportunity was admittedly given by the CIT(Appeals) to the Assessing Officer. Therefore, there was a clear violation of Rule 46A of the Income-tax Rules, 1962. Moreover, the material filed by the assessee was not taken into consideration by the Assessing Officer as well as the CIT(Appeals). In view of the above factual situation, as rightly prayed by the Ld. representative for the assessee and the Ld. D.R., this Tribunal is of the considered opinion that the matter needs to be re-examined by the Assessing Officer. Accordingly, orders of both the authorities below are set aside and the entire issues raised by the assessee and the Revenue in their respective appeals are remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the matter in the light of the material available on record and also on the basis of the material that may be filed by the assessee during the course of proceeding and thereafter decide the issue afresh in accordance with law, after giving a reasonable opportunity to the assessee.

6. In the result, all the appeals filed by the assessee and the Revenue are allowed for statistical purposes.

Order pronounced in the court on 1st August, 2019 at
Chennai.

sd/-

(एस. जयरामन)

(S. Jayaraman)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 1st August, 2019.

Kri.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. निर्धारिती /Assessee
2. Assessing Officer
3. आयकर आयुक्त (अपील)/CIT(A)-19, Chennai-34
4. Principal CIT, Central-1, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.