

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 No.3516/Chny/2018

निर्धारण वर्ष /Assessment Year : 2014-15

M/s M.C. Dalal & Co.,
No.19, Ponnappa Chetty Street,
Park Road, Chennai - 600 003.

v. The Deputy Commissioner of
Income Tax,
Non-Corporate Circle – 5,
Chennai - 600 006.

PAN : AAFFM 0790 G

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri D. Anand, Advocate

प्रत्यर्थी की ओर से / Respondent by : Shri AR.V. Sreenivasan, JCIT

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:

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -5, Chennai, dated 28.09.2018 and pertains to assessment year 2014-15.

2. Shri D. Anand, the Ld.counsel for the assessee, submitted that the donation made by the assessee to M/s Herbicure

Healthcare Bio Herbal Research Foundation was claimed as deduction under Section 35(1)(ii) of the Income-tax Act, 1961 (in short 'the Act'). However, according to the Ld. counsel, the Assessing Officer disallowed the claim of the assessee which was confirmed by the CIT(Appeals). Placing reliance on the order of this Tribunal in assessee's own case for the assessment year 2013-14, the Ld.counsel submitted that when the very same issue came before this Tribunal, this Tribunal remitted back the matter to the file of the Assessing Officer.

3. On the contrary, Shri AR.V. Sreenivasan, the Ld. Departmental Representative, submitted that the donation made by the assessee to M/s Herbicare Healthcare Bio Herbal Research Foundation is actually not donation. It is only an accommodation entry. Therefore, according to the Ld. D.R., the donation made to M/s Herbicare Healthcare Bio Herbal Research Foundation, Kolkata is not eligible for deduction under Section 35(1)(ii) of the Act.

4. We have considered the rival submissions on either side and perused the relevant material available on record. The assessee claims deduction under Section 35(1)(ii) of the Act in respect of the

donation said to be made to M/s Herbicure Healthcare Bio Herbal Research Foundation. The Assessing Officer by placing reliance on the material collected by the Investigation Wing of the Department at Kolkata, disallowed the claim of the assessee which was confirmed by the CIT(Appeals) for the assessment year 2013-14. This Tribunal remitted back the matter to the file of the Assessing Officer for reconsideration on the identical situation. Therefore, during the year under consideration also, the matter needs to be re-examined by the Assessing Officer. Accordingly, orders of both the authorities below are set aside and the entire issue raised by the assessee is remitted back to the file of the Assessing Officer. The Assessing Officer shall furnish the copies of investigation report said to be received from the Investigation Wing of the Department at Kolkata and thereafter decide the issue afresh in accordance with law, after giving a reasonable opportunity to the assessee.

5. In the result, the appeal filed by the assessee is 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.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-5, Chennai-34
4. Principal CIT- 9, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.