

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री इंटूरी रामा राव, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.743/Chny/2018

निर्धारण वर्ष /Assessment Year : 2012-13

M/s Bombay Hardware Pvt. Ltd.,  
No.32, Sembudoss Street,  
George Town, Chennai - 600 001.

v. The Assistant Commissioner of  
Income Tax,  
Corporate Circle – 1(2),  
Chennai.

PAN : AAACB 2823 P

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri S. Sridhar, Advocate

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

सुनवाई की तारीख/Date of Hearing : 05.08.2019

घोषणा की तारीख/Date of Pronouncement : 08.08.2019

### **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) -3, Chennai, dated 30.11.2017 and pertains to assessment year 2012-13.

2. The only issue arises for consideration is addition of ₹5,81,835/-.

3. Shri S. Sridhar, the Ld.counsel for the assessee, submitted that the Assessing Officer found sales to the extent of ₹31,42,30,525/- on verification of unit-wise sales. The Assessing Officer has also found on verification of break-up of the actual sales at ₹31,48,12,360/-. Therefore, according to the Ld. counsel, the Assessing Officer found that the sale was reduced to the extent of ₹5,81,835/-. The assessee filed reconciliation statement before the Assessing Officer as well as the CIT(Appeals). The CIT(Appeals), however, according to the Ld. counsel, has not considered the reconciliation statement filed by the assessee.

4. We heard Shri V.M. Mahidar, the Ld. Departmental Representative, also. On perusal of the order of the CIT(Appeals), it appears that the CIT(Appeals) has not re-appreciated the material available on record. The CIT(Appeals) has simply recorded a statement that since it is a factual finding of the Assessing Officer, he is not inclined to interfere with the reasoning of the Assessing Officer. This Tribunal is of the considered opinion that the CIT(Appeals) has to re-appreciate the material available on record including the reconciliation statement filed by the assessee. The power of the CIT(Appeals) under the scheme of Income-tax Act is

very significant. In other words, the CIT(Appeals) has the power coterminous as that of the Assessing Officer. Moreover, he is conferred with the power of enhancing the assessment. Moreover, the Assessing Officer has decided on factual aspect. This does not empower the CIT(Appeals) to disown his responsibility cast upon him under the scheme of the Income-tax Act.

5. The CIT(Appeals) is expected to re-appreciate the facts available on record once again to record his own finding on merit in the impugned order. In this case, the CIT(Appeals) has not re-appreciated the material available on record and the facts available on record. Therefore, this Tribunal is of the considered opinion that the matter needs to be re-examined by the CIT(Appeals). Accordingly, the order of the CIT(Appeals) is set aside and the entire issue raised by the assessee is remitted back to the file of the CIT(Appeals). The CIT(Appeals) shall reconsider the facts and material available on record and bring on record how the difference occurred, after considering the reconciliation statement filed by the assessee. Needless to state that the CIT(Appeals) shall give sufficient opportunity to the assessee. Accordingly, the order of the

CIT(Appeals) is set aside and the entire issue is remitted back to the file of the CIT(Appeals).

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

Order pronounced in the court on 8<sup>th</sup> August, 2019 at Chennai.

sd/-

(इंटूरी रामा राव)

(Inturi Rama Rao)

लेखा सदस्य/Accountant Member  
चेन्नई/Chennai,

दिनांक/Dated, the 8<sup>th</sup> August, 2019.

Kri.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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