

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI**

श्री जॉर्ज माथन, न्यायिक सदस्य एवं
श्री इंदूरी रामा राव, लेखा सदस्य के समक्ष

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.316/Chny/2018
निर्धारण वर्ष /Assessment Year: 2014-15

Deputy the Commissioner of
Income Tax,
Corporate Circle 6(2),
Chennai.

Vs. M/s.SN Damani Infra Pvt Ltd.
No.6,Ground floor,Rayala Tower
781-785,Anna Salai,
Chennai 600 002.

[PAN: AAOCS 0334 C]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA Nos.2945/Chny/2017 & 612/chny/2019
निर्धारण वर्ष /Assessment Years: 2014-15 & 2015-16

M/s.SN Damani Infra Pvt Ltd.
No.6,Ground floor,Rayala Tower
781-785,Anna Salai,
Chennai 600 002

Vs. Deputy the Commissioner of
Income Tax,
Corporate Circle 6(2),
Chennai.

[PAN: AAOCS 0334 C]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Revenue by
प्रत्यर्थी की ओर से /Respondent by

: Mr.M.S.Nethrapal,JCIT,D.R
: Mr.T.N.Seetharaman,Advocate

सुनवाई की तारीख/Date of Hearing
घोषणा की तारीख /Date of
Pronouncement

: 22.08.2019
: 22.08.2019

आदेश / ORDER**PER GEORGE MATHAN, JUDICIAL MEMBER:**

ITA No.2945/chny/2017 is an appeal filed by the assessee and ITA No.316/chny/2018 is an appeal filed by the Revenue, against the Order of the Commissioner of Income Tax (Appeals)-15, Chennai, in ITA No.381/2016-17/C.I.T(A)-15 dated 28.09.2017 for assessment year 2014-15. ITA No.612/chny/2019 is an appeal filed by the assessee against the Order of the Commissioner of Income Tax (Appeals)-15, Chennai, in ITA No.220/2017-18/C.I.T(A)-15 dated 31.12.2018 for assessment year 2015-16. Since, the assessee in all these appeals is common, the appeals are heard together and disposed off by the common order.

2. Mr.M.S.Nethrapal represented on behalf of the Revenue and Mr.T.N.Seetharaman represented on behalf of the assessee.

ITA No.316/chny/2018 (Revenue's appeal)

3. The only issue raised in the appeal of Revenue was against the action of Id.CIT(A) in deleting the addition made by Assessing Officer holding that as the assessee did not earn any dividend income, no disallowance was called for u/s.14A r.w.Rule 8D of Income Tax Rules,1962 following the decision of Hon'ble Jurisdictional High Court in the case of

Redington (India) Ltd Vs. ACIT in (2017) 392 ITR 633(Mad). The Id.D.R strongly supported the order of Assessing Officer.

4. In reply, the Id.AR submitted that now the issue was squarely covered by the decision of Hon'ble Jurisdictional High Court in the case of M/s.Chettinad Logistics P. Ltd., in [2017] 80 Taxmann.com 221(Mad).

5. We have heard the rival contentions and perused the material available on record. As it is noticed that Id.CIT(A) has followed the judicial discipline by following the principles laid down by the Hon'ble Jurisdictional High Court in the case of Redington (India) Ltd., referred to supra and as the assessee has not earned any dividend income, no disallowance u/s.14A r.w.Rule 8D is called for and the order of the Id. CIT(A) on this issue stands upheld.

ITA Nos.2945/cjny/17 & 612/chny/19 (Assessee's appeals)

6. It was submitted by the Id.AR that the issue was as to whether the rent received by the assessee from letting out of the properties / ware houses owned by it, was liable to be treated as income under the head "income from house property" or under the head "business income". It was submitted that Id.CIT(A) had in the course of hearing on 26.12.2018 for assessment year 2015-16, called for certain details being the copy of Memorandum & Articles of Association of assessee company, Lease

Agreement etc. and the assessee had vide letter dated 31.12.2018 provided the copy of the same to the Id.CIT(A). It was a submission that Id.CIT(A) had passed the order for assessment year 2015-16 by holding assessee has not provided the details. Before us, Id.AR submitted a copy letter dated 31.12.2018 wherein the acknowledgement seal of the Id.CIT(A)'s office is available. It was a prayer that he had no objection, if the issues raised in these appeals being identical for assessment years 2014-15 & 2015-16 were restored to the file of Id.CIT(A) for re-adjudication.

7. In reply, the Id.DR strongly supported the orders of the Id.CIT(A) and the Assessing Officer.

8. We have heard the rival contentions and perused the material available on record. As it is noticed that the assessee has filed the details called for by the Id.CIT(A) on 31.12.2018, and the Id.CIT(A) has decided the appeal on 31.12.2018 for assessment year 2015-16 without considering the evidences submitted by the assessee, in the interest of justice, the issues raised in both the appeals of the assessee are restored to the file of Id.CIT(A) for re-adjudication after granting adequate opportunity of being heard.

9. In the result, the appeal of Revenue is dismissed and both the appeals of the assessee are partly allowed for statistical purposes.

Order pronounced on the 22nd August, 2019 in Chennai.

Sd/-
(इंटूरी रामा राव)

(INTURI RAMA RAO)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 22nd August, 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