

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' 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.366/Chny/2019

&

C.O. No.52/Chny/2019

(in I.T.A. No.366/Chny/2019)

निर्धारण वर्ष /Assessment Year : 2012-13

The Assistant Commissioner of
Income Tax,
Corporate Circle 6(1),
Chennai - 600 034.

v. M/s Sankar Sealing Systems Pvt.
Ltd.,
No.1721, Sivapriya, 6th Avenue,
Anna Nagar, Chennai - 600 040.

(अपीलार्थी/Appellant)

PAN : AAACS 8595 H

(Respondent & Cross-objector)

अपीलार्थी की ओर से/Appellant by :

Shri AR.V. Sreenivasan, JCIT

प्रत्यर्थी की ओर से/Respondent by :

Shri G. Baskar, Advocate

सुनवाई की तारीख / Date of Hearing : 23.08.2019

घोषणा की तारीख / Date of Pronouncement : 23.08.2019

आदेश / O R D E R

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

This appeal of the Revenue is directed against the order of the Commissioner of Income Tax (Appeals) -16, Chennai, dated 14.11.2018 and pertains to assessment year 2012-13. The assessee has filed the cross-objection against the very same order

of the CIT(Appeals). Therefore, we heard the appeal of the Revenue and the cross-objection of the assessee together and disposing the same by this common order.

2. On hearing the Ld. Departmental Representative, we find that the tax effect in this case is less than ₹50 lakhs. The CBDT in its Circular No.17/2019 dated 08.08.2019 increased the monetary limit for filing appeal before this Tribunal and instructed its officers to withdraw all the appeals pending before the ITAT where the tax effect is less than ₹50 lakhs. This Tribunal is of the considered opinion that this Circular of CBDT is binding on the officers of the Department. Therefore, the Revenue cannot proceed further in this appeal. Accordingly, this appeal of the Revenue stands dismissed.

3. Now coming to the cross-objection filed by the assessee, Shri G. Baskar, the Ld.counsel for the assessee, submitted that there was no dividend income, therefore, there cannot be any disallowance either under normal computation or under MAT computation. On a query from the Bench, whether there was any finding either by the Assessing Officer or by the CIT(Appeals) that there was no dividend income, the Ld.counsel submitted that there

was no such finding by the lower authorities, however, the matter may be remitted back to the file of the Assessing Officer for reconsideration.

4. We heard Shri AR.V. Sreenivasan, the Ld. D.R. also. The assessee claims before this Tribunal that there was no dividend income. However, there was no finding either by the Assessing Officer or by the CIT(Appeals) with regard to availability of the dividend income. Therefore, this Tribunal is of the considered opinion that the matter needs to be re-examined by the Assessing Officer. Accordingly, the orders of the authorities below are set aside and the issue of disallowance made under Section 14A of the Income-tax Act, 1961 (in short 'the Act') is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the matter and bring on record the availability of the dividend income 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 Revenue is dismissed. However, the cross-objection filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 23rd August, 2019 at
Chennai.

sd/-

(एस. जयरामन)

(S. Jayaraman)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 23rd 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)-16, Chennai-34
4. Principal CIT- 6, Chennai-34
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.