

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री धुव्वुरु आर.एल. रेड्डी, न्यायिक सदस्य एवं
श्री एस. जयरामन, लेखा सदस्य के समक्ष

BEFORE SHRI DUVVURU R.L. REDDY, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2926/Chny/2018
निर्धारण वर्ष /Assessment Year: 2013-14

The Asst. Commissioner of-
Income Tax,
Corporate Circle-4(1),
Chennai.

Vs. Shri Krishnan Vidhyashankar,
New No.11, Old No.6,
Sivasundar Avenue,
Thiruvanmiyur,
Chennai-600 041.

(अपीलार्थी/**Appellant**)

[PAN: AAHPS 5321 B]
(प्रत्यर्थी/**Respondent**)

Department by
Assessee by

: Mr. AR.V.Sreenivasan, JCIT
: Mr. Philip George, Adv. &
Mr. D.Palanivel, Adv.

सुनवाई की तारीख/Date of Hearing

: 08.07.2019

घोषणा की तारीख/Dt. of Pronouncement

: 26.08.2019

आदेश / O R D E R

PER SHRI DUVVURU R.L. REDDY, JUDICIAL MEMBER:

The Revenue filed this appeal against the order of the Commissioner of Income Tax (Appeals)-8, Chennai, in ITA No.81/16-17 dated 31.07.2018 for the AY 2013-14.

2. The only grievance of the Revenue is that the Ld.CIT(A) erred in deleting the addition made by the AO on account of unexplained cash

deposits made by the assessee to the tune of Rs.80,50,000/- u/s.68 of the IT Act.

3. Briefly the facts of the case are that the assessee is a Managing Director of M/s.MM Forgings Ltd., filed their return of income on 16.09.2014 admitting a net income of Rs.1,75,25,730/-. The assessment was taken up for scrutiny by issuing notice u/s.143(3) of the Act, various details/information/evidence were called for. During the course of assessment, the assessee furnished some of the evidence before the AO. After considering the submissions of the assessee, the assessment was completed after making various additions of Rs.91,71,747/-. Out of which, Rs.80,50,000/- is the subject matter of the present appeal.

4. On being aggrieved, the assessee preferred an appeal before the Ld.CIT(A). After considering the submissions of the assessee, the Ld.CIT(A) directed the assessee to delete the addition of Rs.80,50,000/- which is an unexplained cash deposits.

5. On being aggrieved, the Revenue preferred an appeal before the Tribunal.

6. The Revenue has raised the following grounds:

1. The order of the CIT(A) is contrary to law and facts of the case.

2. The CIT(A) erred in deleting the addition made by the Assessing Officer on account of unexplained cash deposits made by the assessee to the tune of Rs.80,50,000/- u/s.68 of the I.T. Act.

2.1 The CIT(A) failed to appreciate the fact that the onus is on the assessee to satisfactorily prove and explain the sources of cash deposits made before the Assessing Officer.

2.2 The CIT(A) failed to appreciate the fact that the section 68 reads as "Where any sum is found credited in the books of an assessee maintained for any previous year and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year".

2.3 The Id.CIT(A) erred in deleting the addition made u/s.68 when the assessee failed to produce before the AO any ledger, confirmation or any other evidence in support of his claim.

2.4 Having regard to the decision of the Hon'ble High Court of Delhi in the case of CIT vs N. Tarika Properties Investment P Ltd, (2013) 40 taxmann.com 525 which was subsequently confirmed by the Hon'ble Supreme Court, wherein the addition made by the AO u/s.68 was sustained when the assessee has not discharged the onus satisfactorily, the Id.CIT(A) ought to have upheld the action of the AO.

2.5 The Id. CIT(A) erred in deleting the addition made by the AO without following the principles as enumerated by the Hon'ble Supreme Court in the case of Roshan Di Hatti v. CIT [1977] 107 ITR 938 (SC) and Kale Khan Mohammad Hanif v. CIT [1963] 50 ITR 1 (SC) wherein it is held that where the nature and source of a receipt, whether it be of money or other property, cannot be satisfactorily explained by the assessee, it is open for the revenue to hold that it is the income of the assessee and no further burden lies on the revenue to show that the income is from any particular source.

2.6 The CIT(A) ought to have upheld the action of the AO.

3. For these and other grounds that may be adduced at the time of hearing, it is prayed that the order of the learned CIT(A) may be set aside and that of the Assessing Officer restored.

7. The Ld.Counsel for the assessee filed additional submissions and brought to the notice of the bench that the appeal of the Revenue is below monitory limits of the tax as per the Circular No.17/2019 dated 08.08.2019. The said Circular filed on 20.08.2019 i.e. after hearing of the appeal. He further submitted that as per the above Circular the appeal filed by the Revenue is not maintainable before the Tribunal.

8. The Ld. Departmental Representative fairly agreed that the tax effect was less than Rs.50.00 lakhs.

9. We have heard the rival contentions and perused the orders of the authorities below.

10. The tax effect in the appeal of the Revenue being less than Rs.50.00 lakhs, it cannot survive.

11. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on the 26th day of August, 2019, in Chennai.

Sd/-

(एस. जयरामन)

(S. JAYARAMAN)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(धुव्वुरु आर.एल. रेड्डी)

(DUVVURU R.L. REDDY)

न्यायिक सदस्य /**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 26th August, 2019.

TLN

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