

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 RL Reddy, Judicial Member &
Shri S. Jayaraman, Accountant Member

आयकर अपील सं./I.T.A.No.2672/Chny/2018
निर्धारण वर्ष/**Assessment Year:2014-15**

The Assistant Commissioner of
Income Tax, Non Corporate Circle 3,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

Smt. Sekar Sarada,
Vs. No. 6, Vishranti Apartments,
Kasturi Estate, 3rd Street,
Poes Garden, Chennai 600 086.

[PAN:AVMPS5432R]

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Bharath, JCIT
प्रत्यर्थी की ओर से/Respondent by : Shri S. Sridhar, Advocate
सुनवाई की तारीख/ Date of hearing : 10.07.2019
घोषणा की तारीख /Date of Pronouncement : 10.09.2019

आदेश /O R D E R

PER DUVVURU RL REDDY, JUDICIAL MEMBER:

This appeal filed by the Revenue is directed against the order of the Id. Commissioner of Income Tax (Appeals) 15, Chennai dated 28.06.2018 relevant to the assessment year 2014-15. The Revenue has challenged the order of the Id. CIT(A) in granting relief against addition towards unexplained cash credit, granting partial relief by restricting the disallowance at 20% on the claim of agricultural income, and deleting the disallowance of sundry creditors of ₹.15.35 crores as well as disallowance of expenses to the tune

of ₹.48.49 lakhs on the basis of the fresh evidences/details produced by the assessee without given an opportunity to the Assessing Officer as per Rule 46A of the Income Tax Rule.

2. Brief facts of the case are that the assessee filed belated return of income for the assessment year 2014-15 on 30.03.2016 declaring loss of ₹.78,11,113/-. The return filed by the assessee was selected for scrutiny and notice under section 143(2) of the Income Tax Act, 1961 ["Act" in short] was duly served on the assessee. Thereafter, notice under section 142(1) of the Act dated 16.08.2016 and notice under section 142(1) of the Act dated 31.10.2016 calling for various details were issued. Final show cause notice was also issued to the assessee on 05.12.2016, but there was no reply from the assessee. Since there was continuous non-cooperation from the assessee in furnishing the relevant details, the Assessing Officer proceeded to conclude the assessment under section 144 of the Act after considering the materials available on record and determined the income of the assessee at ₹.15,85,88,118/- by making various additions.

3. The assessee carried the matter in appeal before the Id. CIT(A) with regard to the addition made under section 68 of the Act, disallowance of agricultural income, disallowance of sundry credits under section 41(1) of the Act and deleting the expenses under section 37 of the Act. After considering various documents and submissions of the assessee, the Id. CIT(A) partly

allowed the appeal filed by the assessee, against which, the Revenue is in appeal before the Tribunal.

4. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. Since the assessee has not responded to any of the notices issued by the Assessing Officer, the best judgement assessment was passed under section 144 of the Act. Against the addition towards cash credits to the tune of ₹.32,43,500/- after considering the submissions of the assessee as well as considering various other materials, the Id. CIT(A) deleted the addition to the extent of ₹.20,31,580/-.

4.1 Against the disallowance of agricultural income, after considering various documents furnished by the assessee, such as, the sale deed for the agricultural lands held by the assessee, patta, chitta, adangal, VAO's certificate with regard to the agricultural yield and returns of income of various earlier assessment years, the Id. CIT(A) restricted the disallowance to 20% of the agricultural income declared by the assessee, which is in violation of Rule 46A of the Income Tax Rules.

4.2 With regard to the disallowance of sundry creditors as well as various expenses booked under the profit and loss account, since the assessee failed to provide any substantial proofs/evidences, both the claim of the

assessee was disallowed. After considering the submissions of the assessee, the Id. CIT(A) granted partial relief to the above disallowances.

4.3 However, while deleting/granting partial relief of various disallowances, we find that the Id. CIT(A) has not obtained any remand report from the Assessing Officer on the fresh materials taken into consideration, which is in violation of Rule 46A of the Income Tax Rules. In view of the above, we set aside the order of the Id. CIT(A) and remit the matters to the file of the Assessing Officer to examine and decide all the above issues afresh in accordance with law after allowing an opportunity of being heard to the assessee. The assessee is also directed to furnish all material evidence and explanation for deciding the issues.

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

Order pronounced on the 10th September, 2019 at Chennai.

Sd/-
(S. JAYARAMAN)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, the 10.09.2019

Vm/-

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.