

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL , 'B' BENCH, CHENNAI  
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष  
BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER AND  
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.745/CHNY/2019

(निर्धारण वर्ष / Assessment Year: 2015-16)

&

**Stay Petition No.279/Chny/2019**

(आयकर अपील सं./ in I.T.A.No.745/Chny/2019)

**Shri Subbian Iyappan,**  
114, Patariyar Nedunthi Street,  
Elankadai, Kottar,  
Tuticorin – 629 002.

Vs **The Income Tax Officer,**  
International Taxation,  
Tuticorin.

**PAN: ABUPI1076K**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri K.Ravi, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri AR.V. Sreenivasan, JCIT

सुनवाई की तारीख/Date of hearing : 04.10.2019

घोषणा की तारीख /Date of Pronouncement : 04.10.2019

### **आदेश/ ORDER**

#### **PER S. JAYARAMAN, ACCOUNTANT MEMBER:**

The assessee filed this appeal against the common order of the Commissioner of Income Tax (Appeals)-16, Chennai in ITA No. 55/CIT(A)-16/2017-18 dated 31.01.2019 for the assessment year 2015-16. The assessee has also filed a stay petition in SP No.745 of 2019.

2. Shri Subbian Iyappan, the assessee, is a non-resident. He has made cash deposits to the tune of Rs.2,52,87,000/- in three bank accounts. The Id.AR submitted that while making the assessment in the assessee's case for the assessment year 2015-16, the AO required the assessee to explain the sources of cash deposits made during the financial year 2014-15 in the three bank accounts. Since, the assessee being a non-resident and he was in abroad, he required time to furnish the details. Since, the assessment was barring by limitation, the AO made an addition to the impugned cash deposits and completed the assessment. Aggrieved against that order, the assessee filed an appeal before the CIT(A). Before the Id. CIT(A), the assessee filed certain explanations. The Id.CIT(A) dismissed the appeal stating that the explanations given before the AO is entirely different from the explanations given before him by the assessee. Aggrieved against that order, the assessee filed this appeal.

3. The Id.AR pleaded that in the assessee's case, the assessee explained the sources in the subsequent assessment year 2017-18, which was on due examination, accepted by the AO and the order was passed U/s.143(3) r.w. 147 of the IT Act, 1961 dated

30.05.2019. In the circumstances, it was pleaded that if an opportunity is given to the assessee, he would make all endeavours to satisfy the genuineness of the transactions before the concerned authority and hence, the Id.AR pleaded that the issue may be remitted back to the concerned authority.

4. We heard the rival submissions. Since, the assessee is pleading that he was non-resident and he could not furnish the due documents at the time of assessment. When the assessee filed certain explanations before the Id.CIT(A), the Id.CIT(A) did not examine them and dismissed the appeal. Since, the sources of cash deposits made in the subsequent assessment year has been already accepted by the AO on due examination, we deem that the issues in this appeal are remitted back to the AO for a fresh examination. The assessee shall lay all materials in support of his contention before the Assessing Officer and comply with the requirements of the Assessing Officer in accordance with law. The Assessing Officer is free to conduct appropriate enquiry as deemed fit, however, he shall furnish due opportunity to the assessee on the materials etc., to be used against the assessee and on due consideration of the

assessee's clarification / explanation, etc., the AO shall pass the order on merits in accordance with law.

5. Since we have remitted the appeal back to the file of the AO, the stay petition filed by the assessee is dismissed.

6. In the result, the assessee's appeal is treated as partly allowed for statistical purposes and the assessee's stay petition is dismissed.

Order pronounced in the open court on 4<sup>th</sup> October, 2019 at Chennai.

Sd/-

(धुव्वुरु आर एल रेड्डी)

(Duvvuru R.L Reddy)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated 4<sup>th</sup> October, 2019

Sd/-

( एस जयरामन )

(S. Jayaraman)

लेखा सदस्य /Accountant Member

**RSR**

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             |