

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C' 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.965/Chny/2018  
निर्धारण वर्ष /Assessment Year: 2004-05

M/s.Five Star Marine Exports-  
Pvt. Ltd.,  
#55, Venkatesan Street,  
Chindadripet,  
Chennai-600 002.

**Vs.** The Dy. Commissioner-  
of Income Tax,  
Corporate Circle-2(1),  
Chennai-600 034.

**[PAN: AAACF 3541 N]**  
**(अपीलार्थी/ Appellant)**

**(प्रत्यर्थी/ Respondent)**

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

: Mr. Philip George, Adv.  
: Mr.R.Clement Ramesh-  
Kumar, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 04.07.2019

घोषणा की तारीख/Dt. of Pronouncement

: 30.09.2019

**आदेश / O R D E R**

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

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-13, Chennai, in ITA No.02/CIT(A)-13/AY 2004-05 dated 22.11.2017 for the AY 2004-05.

2. M/s.Five Star Marine Exports Ltd., the assessee, is engaged in the business of exporting sea foods. While making the assessment for the AY 2004-05, the AO, inter alia, disallowed 50% of the beheading expenses

and the peeling charges claimed by the assessee. Aggrieved against that order, the assessee filed an appeal before the CIT(A). The Ld.CIT(A) held, inter alia, that the assessee has produced the ledger account copy of beheading expenses and peeling charges only. The payments are made by cash and they are not examined. Since the assessee has not produced any bills or vouchers in respect of such claim either before the AO nor before him, therefore, he upheld the disallowances made by the AO. Aggrieved against the order of the Id CIT(A), the assessee filed this appeal.

3. The assessee challenged the orders passed by the lower authorities. While hearing the appeal, it was found that in the computation, the AO determined the total income in his order u/s 143(3) dt 22.12.2006 as under:

Income returned before allowing deduction u/s.80HHC		Rs.	88,70,381
<b>Less:</b> Deduction u/s.Chapter VIA			
(i) 80 GGA	Rs.12,000		
(ii) 80HHC (separate sheet enclosed)	Rs. NIL	Rs.	12,000
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		Rs.	88,58,381
Income tax thereon		Rs.	31,00,438
<b>Add:</b> Surcharge @ 2.5%		Rs.	77,510
		Rs.	31,77,943
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Since the impugned disallowances are not forming part of the computation in the above order and the corresponding demands are not raised on the assessee, we asked the Id AR how this appeal is maintainable. The Id AR submitted that this aspect was not noticed by them at all.

4. We heard the rival submissions and gone through the relevant materials. It is clear from the above, though the AO discussed the impugned issues in the assessment order, neither he raised a demand corresponding to such disallowances nor the assessee has shown that it has any liability on the impugned issues which is being denied in this appeal within the scope of class (a) of sub-section 1 of section 246 and hence the impugned appeal is not maintainable and hence dismissed.

5. In the result, the appeal filed by the assessee is treated as dismissed.

Order pronounced on the 30<sup>th</sup> day of September, 2019, in Chennai.

**Sd/-**

(धुव्वुरु आर.एल. रेड्डी)

**(DUVVURU R.L. REDDY)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

**Sd/-**

(एस. जयरामन)

**(S. JAYARAMAN)**

लेखा सदस्य /**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 30<sup>th</sup> September, 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