

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
' B' BENCH : CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री इंटूरी रामा राव, लेखा सदस्य के समक्ष
[BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER]

आयकर अपील सं./I.T.A. No. 47/CHNY/2018
निर्धारण वर्ष /Assessment year : 2013-2014.

Shri. Jayapal Sriram,
No.413, G.N.T. Road,
Redhills,
Chennai 600 052.

Vs. The Income Tax officer,
Non Corporate Ward 10(4)
Chennai.

[PAN ASNPS 4110L]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri. M. Murugaboopathy, Adv.
प्रत्यर्थी की ओर से /Respondent by : Shri. AR.V. Sreenivasan, JCIT.

सुनवाई की तारीख/Date of Hearing : 24-10-2019
घोषणा की तारीख /Date of Pronouncement : 19-11-2019

आदेश / ORDER

PER INTURI RAMA RAO, ACCOUNTANT MEMBER

This is an appeal filed by the Assessee directed against the order of the Commissioner of Income Tax (Appeals)-12, Chennai ('CIT(A)' for short) dated 24.10.2017 for the Assessment Year (AY) 2013-2014.

2. The Assessee raised the following grounds of appeal:

'1. The Learned CIT (Appeals) passed order confirming the determination of profit at Rs.1,37,98,547 estimated @ 10% on turnover of Rs.13,79,85,475 by Learned AO which is contrary to law and facts.

2. The Learned CIT (Appeals) failed to consider the profitability prevalent in jewellery business while confirming the estimation @ 10% on turnover.

3. The appellant craves permission to add, amend, alter or vary allow any grounds of appeal before the disposal of appeal.

4. In view of above grounds and any other ground that will be permitted to be adduced at the time of hearing, the appellant prays the Honourable Tribunal to allow the appeal and delete the tax demanded".

3. The brief facts of the case are as under:

The appellant is an individual carrying jewellery business. The return of income for the AY 2013-14 was filed on 06.08.2014 disclosing total income of Rs.11,24,560/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Non Corporate Ward 10(4), Chennai vide order dated 30.03.2016 passed u/s. 143(3) of the Income Tax Act, 1961 (for short 'the Act') at total income of Rs. 1,37,98,550/-. While doing so, the Assessing Officer had completed the assessment to the best judgment as assessee had not complied with the notice issued u/s.143(2) of the Act by estimating 10% of the turnover as taxable profit.

4. Being aggrieved, an appeal was preferred before the Id.CIT(A) who vide impugned order confirmed the action of the Assessing Officer, as assessee had failed to substantiate the return of income filed by him.

5. Being aggrieved, the appellant is in appeal before us in the present appeal. It is submitted that profit of 10% is excessive and depreciation should be allowed as deduction, in support of this, he placed reliance on the decision of Hon'ble *Supreme Court in the case of Dhakeswari Cotton Mills Ltd vs. CIT, 26 ITR 775.*

6. On the other hand, the Id. Sr. Departmental Representative placed reliance on the orders of lower authorities.

7. We heard the rival submissions and perused the material on record. Admittedly, assessee had not complied with the statutory notice issued u/s.143(2) of the Act nor before the Id. Commissioner of Income Tax (Appeals) he could substantiate the return of income filed by him. Therefore, we are of the considered opinion that the Assessing Officer was justified in rejecting the books resulting in estimating the gross profit. Then the question that arises is what is reasonable rate of profit. It is settled proposition of law that even in best judgment assessment, the Assessing Officer is expected to adopt

reasonable profit ratio having regard to the profit earned in comparative cases and past history etc. Assessee except by making submission that gross profit is excessive and unreasonable, no evidence is filed before us demonstrating the gross profit rate of 10% is excessive and unreasonable. No claim of allowance of depreciation was made before lower authorities, therefore depreciation claimed cannot be allowed at this stages of proceedings, as the estimated profits. Therefore, we are of the considered opinion that 10% gross profit is reasonable in the jewellery business and accordingly, we confirm the orders of the lower authorities.

8. In the result, the appeal filed by the assessee stands dismissed.

Order pronounced on 19th day of November, 2019, at Chennai.

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. GANESAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

Sd/-

(इंटूरी रामा राव)

(INTURI RAMA RAO)

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai

दिनांक/Dated:19th November, 2019

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|--------------------------|------------------------------|-------------------------|
| 1. अपीलार्थी/Appellant | 3. आयकर आयुक्त (अपील)/CIT(A) | 5. विभागीय प्रतिनिधि/DR |
| 2. प्रत्यर्थी/Respondent | 4. आयकर आयुक्त/CIT | 6. गार्ड फाईल/GF |