

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री इंटर्री रामा राव, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष
Before Shri Inturi Rama Rao, Accountant Member &
Shri Duvvuru RL Reddy, Judicial Member

आयकर अपील सं./I.T.A. No. 2223/Chny/2018
निर्धारण वर्ष/Assessment Year: 2015-16

M/s. Velavan Stores Jewellers,
51, Gin Factory Road,
Tuticorin 628 001.
[PAN:AAGFV3014M]

The Assistant Commissioner of
Income Tax,
Circle 1,
Tuticorin.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri N. Devanathan, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri A. Sundararajan, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 14.11.2019
घोषणा की तारीख /Date of Pronouncement : 29.11.2019

आदेश / O R D E R

PER DUVVURU RL REDDY, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Principal Commissioner of Income Tax, Madurai – 1, Madurai, dated 25.05.2018 relevant to the assessment year 2015-16 passed under section 263 of the Income Tax Act, 1961 ["Act" in short].

2. Brief facts of the case are that the assessee has filed its return of income for the assessment year 2015-16 on 22.08.2015 admitting total income of ₹.99,80,270/-. The case of the assessee was selected for scrutiny and notice under section 143(2) of the Act was issued. The scrutiny

assessment under section 143(3) of the Act was completed by assessing total income of the assessee at ₹.1,11,48,150/- after making various additions. After perusing the records, the Id. PCIT was of the opinion that the assessment order passed under section 143(3) of the Act is erroneous in so far as it is prejudicial to the interests of the Revenue on the ground that the valuation of the shopping complex building constructed by the assessee at ₹.34,18,46,564/- was based on the Tamil Nadu Public Work Department, whereas, for estimating cost of construction, Central Public Works Department rates are to be adopted. Further, the Id. PCIT observed that the difference between the estimate made by the above valuer as per the CPWD rates is more than 15%, the Assessing Officer ought to have referred the cost of construction admitted by the assessee to the DVO and then ought to have completed the assessment based on the valuation report of the DVO. Accordingly, notice under section 263 of the Act was served on the assessee proposed revision of the assessment. After considering the written submissions, the Id. PCIT directed the Assessing Officer to redo the assessment in accordance with law in respect of the above issues.

3. The assessee is in appeal before the Tribunal against the order passed under section 263 of the Act. The Id. Counsel for the assessee has argued that the rates applicable towards metropolitan city as of the CPWD rates cannot be made applicable to the construction cost of building in the

rural area of Tuticorin District and prayed that the 263 order passed by the Id. PCIT should be quashed. Per contra, the Id. DR has submitted that nothing is emanating from the assessment order as to what rate was adopted by the Assessing Officer, and thus, the assessment order needs revision.

4. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including detailed paper book containing valuation report, case law, etc. Admittedly, nothing was narrated in the assessment order with regard to the valuation of the construction of the shopping complex building, which means, the Assessing Officer has fully accepted the cost of construction as claimed by the assessee. On perusal of the assessment records, the Id. PCIT has observed that the assessee has constructed a shopping complex building situated at door No. 39A, 51, 52, 53, Gin Factory Road, Tuticorin during the period 2012 for ₹.34,18,46,564/- and for estimating the cost of construction, CPWD rates are to be adopted. However, we find that since the building constructed by the assessee is located at rural area of Tuticorin, for estimating the cost of construction, PWD rates are to be adopted in view of the decisions of the Hon'ble Jurisdictional High Court in the case of TMPN Murugesan v. CIT [35 taxmann.com 208 (Madras)] as well as in the case of CIT v. Raya R. Govindarajan [49 taxmann.com 526]. On perusal of the valuation report of

the Chartered Engineer, nowhere it was mentioned that he has adopted the PWD rates for the valuation of the above building. However, by placing reliance on various case law relating the adoption of PWD rates in rural areas, the Id. Counsel for the assessee has argued that the approved valuer has valued the cost of construction of the building as per PWD rates only. Under these facts and circumstances, we are not inclined accept the contention of the Id. PCIT to adopt CPWD for valuing the cost of construction in rural area. However, we direct the Assessing Officer to examine as to whether the valuer has adopted PWD rates and pass a detailed order in accordance with law by affording an opportunity of being heard to the assessee. Thus, the appeal filed against the order passed under section 263 of the Act stands disposed.

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

Order pronounced on the 29th November, 2019 in Chennai.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, 29.11.2019

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.