

आयकर 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 RL REDDY, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.96/Chny/2017

निर्धारण वर्ष /Assessment Year: 2012-13

Shri C.S. Pandian,
1, M.K.S. Nagar,
Devanand Illam, Vadavalli,
Coimbatore – 641 041.

Vs. The Income Tax Officer,
Non Corporate Ward 4(2),
Coimbatore.

PAN: AQHPP2573N
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri Clement Ramesh Kumar, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 19.08.2019

घोषणा की तारीख /Date of Pronouncement

: 13.11.2019

आदेश / ORDER

PER SHRI S. JAYARAMAN, ACCOUNTANT MEMBER:

The Assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-3, Coimbatore in IT Appeal No.78/15-16 dated 29.06.2016 for the assessment year 2012-13.

2. Shri C.S. Pandian, the assessee, is a building contractor. While making the assessment for the assessment year 2012-13, the Assessing Officer, inter-alia, treated Rs.29,64,450/-, the difference

between the gross receipts admitted by the assessee and the gross receipts found by the Assessing Officer from the bank statements of the assessee and Rs.45,00,000/- unsecured loan U/s.68 and completed the assessment. Aggrieved, the assessee filed an appeal before the CIT(A). The Id.CIT(A) after considering the assessee's reply, etc., allowed partial relief. Aggrieved against that order, the assessee filed this appeal.

3. The Id.AR submitted that the assessee admitted the gross receipts in his return at Rs.35,25,000/- only. Later on, when the Assessing Officer pointed out that the assessee has made a bank deposits of Rs.68,92,200/-, both in the assessee name as well as in his wife's name, the assessee submitted that its actual gross receipts was Rs.56,04,050/- and hence pleaded to assess his income on the differential gross receipts U/s.44AB @ 8%. The Assessing Officer required the assessee to furnish the bills and vouchers in connection with his contract business and produce confirmation from the parties. The Assessing Officer also issued letters randomly to the parties based on the information furnished by the assessee which were returned as "insufficient address". Therefore, the Assessing Officer added the difference between the gross receipts as assessee's

unaccounted money deposited into his bank account. Later on the Assessing Officer rectified this addition at Rs.20,79,050/-. On appeal, the assessee submitted details of the cash withdrawals and the submitted before the Id.CIT(A) that the deposits into the bank accounts did not represent unaccounted money as alleged by the Assessing Officer. The Id.CIT(A) failed to appreciate such material but confirmed the impugned addition. With regard to the addition of Rs.45,00,000/-, the Id.AR submitted that the assessee submitted a detailed explanation before the Id.CIT(A) and with regard to receipt of Rs.4,00,000/- from Jayashree.M in March 2012, it was submitted that this sum is reflected in the bank statement of SB account by a credit entry dated 29.03.2012 and it represents income earned in the course of carrying on the business and included in the gross receipts admitted in the return. However, the Id.CIT(A) without examining the material decided the issue against the assessee. Therefore, the Id.AR submitted that the Id.CIT(A) failed to appreciate the nature of transactions based on the material evidence available on record and hence his decision is wrong, erroneous, unjustified and not sustainable in law and hence pleaded to allow the appeal. Per contra, the Id.DR supported the order of the lower authorities.

4. We heard the rival submissions, gone through the material and find that the Id.CIT(A) has not considered the impugned material in arriving his decision. In the facts and circumstances, we restore these matters to the Id.CIT(A) for due consideration and proper decision. The Id.CIT(A) would after affording due opportunity to the assessee would dispose the issues in accordance with law.

5. In the result, the assessee's appeal is treated as allowed for statistical purpose.

Order pronounced in the Court on 13th November, 2019 in Chennai.

Sd/-

(धुव्वुरु आर एल रेड्डी)
(Duvvuru R.L Reddy)

न्यायिक सदस्य/Judicial Member
चेन्नई/Chennai,
दिनांक/Dated 13th November, 2019

Sd/-

(एस जयरामन)
(S. Jayaraman)

लेखा सदस्य /Accountant Member

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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