

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 केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.2476, 2477, 2478, 2479 & 2480/Chny/2019

निर्धारण वर्ष /Assessment Years : 2006-07 to 2010-11

Shri M. Jeyaprakash,
No.15/78, SBI Colony, 3rd Street,
Saligramam, Chennai - 600 093.

PAN : AECPJ 2867 E

(अपीलार्थी/Appellant)

v.

The Income Tax Officer,
Business Ward – III(3),
Now, the Income Tax Officer,
Non Corporate Ward 8(1),
Chennai - 600 034.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri G. Baskar, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri A. Sundararajan, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 03.12.2019

घोषणा की तारीख/Date of Pronouncement : 01.01.2020

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

All the five appeals of the assessee are directed against the common order passed by the Commissioner of Income Tax (Appeals) -9, Chennai, dated 19.06.2019 and pertain to assessment years 2006-07, 2007-08, 2008-09, 2009-10 and 2010-11. Therefore, we heard all the appeals together and disposing the same by this common order.

2. Shri G. Baskar, the Ld.counsel for the assessee, submitted that the only issue arises for consideration is addition made by the Assessing Officer under Section 69 of the Income-tax Act, 1961 (in short 'the Act'). According to the Ld. counsel, during the pendency of the appeal before the CIT(Appeals), a remand report was called for from the Assessing Officer. In fact, the Assessing Officer submitted his remand report on 13.02.2017. The CIT(Appeals), after considering the remand report, found that the satisfaction of the Assessing Officer with regard to expenses claimed was not recorded in the remand report. Therefore, according to the Ld. counsel, the CIT(Appeals) called for report from the Assessing Officer whether he is satisfied or not with reference to revised statement of accounts filed in the revised return of income. However, the Assessing Officer has not filed any report so far. Moreover, according to the Ld. counsel, the revised Profit & Loss account and balance sheet incorporating all receipts and payments including the undisclosed deposit in the bank account were not taken into consideration either by the Assessing Officer or by the CIT(Appeals). According to the Ld. counsel, the CIT(Appeals) treated the report filed by the Assessing Officer on 13.02.2017 as

interim report and without appreciating the facts and simply confirmed the addition made by the Assessing Officer.

3. On the contrary, Shri A. Sundararajan, the Ld. Departmental Representative, submitted that having not satisfied with the report filed by the Assessing Officer before the CIT(Appeals) on 13.02.2017, the CIT(Appeals) called for another report with the instruction to express whether the Assessing Officer is satisfied or not satisfied with reference to revised statement of accounts filed with the revised return of income. This report was not received by the CIT(Appeals). The Ld. D.R. clarified that the Assessing Officer has not filed the report before the CIT(Appeals). Therefore, the matter may be remitted back to the Assessing Officer for reconsideration.

4. Having heard the Ld.counsel for the assessee and the Ld. D.R., we perused the relevant material available on record. Admittedly, the report called for by the CIT(Appeals) on 27.04.2017 was not filed by the Assessing Officer. The revised Profit & Loss account, balance sheet incorporating the receipts and payments, including the undisclosed deposit in the bank account, need to be taken into consideration by the Assessing Officer. Since the

necessary report as called for by the CIT(Appeals) has not been filed by the Assessing Officer, this Tribunal is of the considered opinion that the matter needs to be reconsidered as suggested by the Ld. D.R. Accordingly, orders of both the authorities below are set aside and the entire issue raised by the assessee is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the matter in the light of the material that may be filed by the assessee and thereafter decide the issue afresh in accordance with law, after giving a reasonable opportunity to the assessee.

5. In the result, all the five appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the court on 1st January, 2020 at Chennai.

sd/-
(इंटूरी रामा राव)
(Inturi Rama Rao)
लेखा सदस्य/Accountant Member

sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 1st January, 2020.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-9, Chennai
4. Principal CIT- 4, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.