

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री एस. जयरामन, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2091/Chny/2019

निर्धारण वर्ष /Assessment Year : 2008-09

Shri S. Kishore Kumar,
D.No.37/136, Samy Iyer New Street,
Coimbatore – 641 001.

PAN : ARUPK 0598 G

(अपीलार्थी/Appellant)

The Deputy Commissioner of
Income Tax,
v. Central Circle,
No.3, Gandhi Road,
Salem – 636 007.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Ms. S. Sriniranjani, Advocate
प्रत्यर्थी की ओर से / Respondent by : Shri AR.V. Sreenivasan, JCIT

सुनवाई की तारीख / Date of Hearing : 27.11.2019

घोषणा की तारीख / Date of Pronouncement : 01.01.2020

आदेश / O R D E R

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

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -19, Chennai, dated 27.05.2019 and pertains to assessment year 2008-09.

2. Ms. S. Sriniranjani, the Ld.counsel for the assessee, submitted that the present appeal arises out of the order passed by

the Assessing Officer under Section 154 of the Income-tax Act, 1961 (in short 'the Act') for rectification. According to the Ld. counsel, the Assessing Officer levied tax under Section 234A of the Act in a proceeding under Section 154 and thereby enhanced the tax demand. According to the Ld. counsel, the appeal filed against the assessment order is still pending for disposal, therefore, the matter may be remitted back to the file of the CIT(Appeals) to dispose the present appeal also along with the appeal filed by the assessee against the assessment order.

3. We heard Shri AR.V. Sreenivasan, the Ld. Departmental Representative also. According to the Ld. D.R., original appeal filed by the assessee against the assessment order was pending before the CIT(Appeals) -18 and this appeal was disposed by the CIT(Appeals)-19. On a query from the Bench why the appeal arising out of Section 154 proceeding could not be disposed of along with main appeal? The Ld. D.R. submitted that the matter may be remitted back to the file of CIT(Appeals) so that it can be heard by one officer in order to settle the issue.

4. We have considered the submissions on either side and perused the relevant material available on record. The appeal filed by the assessee against the assessment order is said to be pending before the CIT(Appeals)-18. The present proceeding is arising out of Section 154 proceeding. The appeal was disposed by the CIT(Appeals)-19.

5. When two different proceedings arise out of the same assessment, this Tribunal is of the considered opinion that the one officer has to dispose both the appeals in order to avoid multiplicity of proceedings and conflicting judicial opinion. When the original appeal was pending before the CIT(Appeals)-18, the appeal arising out of Section 154 proceeding ought to have been posted before the same officer so that conflicting judicial opinion and multiplicity of proceedings can be avoided. Even though levy of interest under Section 234A of the Act is mandatory, it would depend upon the decision taken by the CIT(Appeals) in the appeal filed by the assessee against the assessment order. Therefore, in all fairness, this Tribunal is of the considered opinion that the appeal arising out of the proceeding initiated under Section 154 of the Act has also to

be heard by the CIT(Appeals) along with the appeal filed by the assessee against the assessment order.

6. In view of the above, the order of the CIT(Appeals) is set aside and the entire issue is remitted back to the file of the CIT(Appeals). Necessary administrative steps shall be taken to post the appeal before the same CIT(Appeals) who is handling the appeal filed by the assessee against the assessment order. This appeal as well as the appeal filed by the assessee against the assessment order shall be disposed of by the same officer in order to avoid multiplicity of proceedings and conflicting judicial opinion.

7. With the above observation, the appeal filed by the assessee is allowed for statistical purposes.

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

sd/-

(एस. जयरामन)

(S. Jayaraman)

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)- 19, Chennai-34
4. Principal CIT, Central-2, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.