

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' (SMC) BENCH : CHENNAI

श्री जॉर्ज माथन, न्यायिक सदस्य एवं
श्री इंदूरी रामा राव, लेखा सदस्य के समक्ष
BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No. 3349/CHNY/2019
निर्धारण वर्ष /Assessment year : 2012-2013.

Smt. Sankar Lakshmi
No.132, Rice Merchant
Compound,
Naidu South Street,
Chettiarpatti,
Rajapalayam.

Vs. The Income Tax Officer,
Ward -2,
Virudhunagar 626 001.

[PAN AHRPL 8112C]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri. S. Sankaralingam, CIT (Retd)
प्रत्यर्थी की ओर से /Respondent by : Shri. J. Pavithran Kumar, JCIT.

सुनवाई की तारीख/Date of Hearing : 30-01-2020
घोषणा की तारीख /Date of Pronouncement : 31-01-2020

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)-1, Madurai, ('CIT(A)' for short) dated 17.10.2019 for the Assessment Year (AY) 2012-2013.

2. The Assessee raised the following grounds of appeal:

'1. The learned CIT (Appeals) failed to note that the assessment order is without jurisdiction, opposed to the facts and contrary to law and therefore liable to be quashed.

2. The learned CIT (Appeals) ought to have seen that the JCIT did not have the power to transfer the case of one assessee from one assessing officer to another assessing officer and therefore should have cancelled the impugned order.

3. The learned CIT (Appeals) ought to have given adequate opportunity to the assessee and should not have decided the appeal on ex-parte basis.

4. The learned CIT (Appeals) failed to note that the major portion of the clearing and forwarding charges represents reimbursement of various expenses incurred on behalf of the assessee to various shipping companies for which there is no liability to deduct tax at source as they had obtained necessary certificates from the income tax authorities.

5. Without prejudice to the above, the learned CIT (Appeals) ought to have restricted the disallowance to 30% as the amendment in section 40(a)(ia) will have retrospective effect.

6. The appellant craves leave to add, alter or amend or modify any or all the grounds before or at the time of hearing".

3. From the perusal of the impugned order, it is clear that the Id. CIT(A) had passed ex-parte order as assessee had failed to comply with several hearing notices despite due service of notice of hearing.

4. Even before us, the assessee could not make out a case demonstrating as to how he was prevented from not entering appearance before Id. CIT(A). In the circumstances, though we do not find any fallacy in the order of the Id. CIT(A) in passing ex-parte

order. Keeping in view the statutory principle of law that the income tax proceedings are adversarial proceedings. The objects of proceedings are only to determine the correct tax liability in accordance with law. Therefore, we remit the appeal back to the file of the Id. CIT(A) for fresh adjudication subject to payment of ₹25,000/- towards Prime Minister national relief fund. We make it clear that Id. CIT(A) shall hear the appeal on being satisfied himself that assessee made contribution towards Prime Minister national relief fund. Thus, the appeal filed by the assessee is partly allowed for statistical purpose.

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

Order pronounced on 31st day of January, 2020, at Chennai.

Sd/-
(जॉर्ज माथन)
(GEORGE MATHAN)
न्यायिक सदस्य/**JUDICIAL MEMBER**

Sd/-
(इंटूरी रामा राव)
(INTURI RAMA RAO)
लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai

दिनांक/Dated: 31st January, 2020.

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 |