

आयकर अपीलिय अधिकरण, "बी" न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI  
श्री इंद्ररी 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

**I.T.A. No. 256/Chny/2020**  
**Assessment year: 2005-06**  
**&**  
**S.P. No. 31/Chny/2020**  
**[In I.T.A. No. 256/Chny/2020]**

M/s. Lokesh Secfin Pvt. Ltd.,  
No. 6/13, North Avenue,  
Kesavaperumalpuram,  
Chennai 600 028.

The Deputy Commissioner of  
Income Tax,  
Central Circle II(3),  
Chennai.

**[PAN: AAACL2189C]**

(Petitioner)

(Respondent)

Petitioner by : Shri B. Ramakrishnan, CA  
Respondent by : Ms. R. Anita, JCIT

सुनवाई की तारीख/ Date of hearing : 07.02.2020  
घोषणा की तारीख /Date of Pronouncement : 07.02.2020

**आदेश /O R D E R**

**PER DUVVURU RL REDDY, JUDICIAL MEMBER:**

The appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 19, Chennai dated 05.12.2019 relevant to the assessment year 2005-06. Besides challenging the issues on merits, the Id. Counsel for the assessee has challenged exparte order passed under section 144 r.w.s. 147 of the Income Tax Act, 1961 ["Act" in short] .

2. Brief facts of the case are that the assessee has filed the return of income for the assessment year 2005-06 on 30.10.2005 declaring total income of ₹.631/- Notice under section 148 of the Act dated 30.03.2012 was issued and served on the assessee. Vide letter dated 10.10.2012, the Director of the assessee company has submitted to treat the return filed under section 139 of the Act on 30.10.2005 as the return filed under section 148 of the Act. Subsequently, notice under section 143(2) and 142(1) of the Act were also issued. The assessee was asked to file details with regard to fresh share application money received amounting to ₹.10,00,000/-. Further, it was asked to file details of receipts of ₹.11,00,030/- not accounted in the return of income. Since no details have been filed in response to the above notices, the Assessing Officer brought the entire amounts to tax. On appeal, since the assessee has not furnished any evidence, the Id. CIT(A) dismissed the appeal of the assessee.

3. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that for the relevant assessment year, the case was selected for scrutiny under section 147 of the Act on the basis of information received related to search proceedings at SBQ Steel Limited, Chennai. On the basis of information, notice was issued by ITO, Ward 4(4), New Delhi and was served on the assessee. Since, the assessee company, at that time, was having its registered office at Kolkata,

it was requested to transfer the case to Kolkata at proper jurisdiction. Accordingly, the case was taken up by the ITO, Ward I(4), Kolkata. All the documents as and when requested by the Assessing Officer were properly furnished by the assessee and its AR to the satisfaction of the Assessing Officer. However, the Assessing Officer could have passé the order, the case was pulled by the Central Circle, Chennai in the month of February, 2013 for further proceedings. It was further submission that since the assessee did not had any details instantly at Chennai when the case was scrutinized by the ACIT, Central Circle II (3), Chennai and due to lack of time, the Assessing Officer passed exparte order under section 144 r.w.s. 147 of the Act without referring to any documents furnished at Kolkata and thus, it was prayed for passing suitable directions for adjudication afresh.

4. On the other hand, the Id. DR strongly supported the orders of authorities below.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. On perusal of the assessment order, we find that the Assessing Officer has not discussed anything as to whether the assessee has furnished any details at Kolkata when the case was taken up by the ITO, Ward I(4), Kolkata for scrutiny. When the assessee made submissions before the Id. CIT(A) that they had explained the issue at the time of assessment proceedings taken up in

Kolkata, the Id. CIT(A) failed to obtain any report from the ITO, Ward I(4), Kolkata before concluding the appellate order. Accordingly, we set aside the order of the Id. CIT(A) to remit the matter back to the file of the Assessing Officer with a direction to obtain detailed report from the ITO, Ward I(4), Kolkata, whatsoever details furnished by the assessee while scrutinizing the case by him, if the case was actually got transferred from Kolkata to Chennai and decide the issue afresh after considering the details in accordance with law after affording sufficient opportunities of being heard to the assessee.

6. Once the appeal filed by the assessee has been remitted back to the file of the Assessing Officer for fresh adjudication, the demand raised by the Department will not survive, the stay petition filed in lieu thereof has no *locus standi* and thus, the stay petition filed by the assessee stands dismissed.

7. In the result, the stay petition filed by the assessee is dismissed and the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 07<sup>th</sup> February, 2020 at Chennai.

Sd/-  
(INTURI RAMA RAO)  
ACCOUNTANT MEMBER

Sd/-  
(DUVVURU RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, the 07.02.2020

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.