

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH, CHENNAI
श्री इंटूरी रामा राव, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष
BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER AND
SHRI DUVVURU RL REDDY, JUDICIAL MEMBER

आयकर अपील सं./I.T.A.Nos.2073 & 2074/Chny/2019

(निर्धारण वर्ष / Assessment Years: 2009-10 & 2012-13)

Shri K. Thiagarajan,
Thiagarajan Mills Premises,
Kappalur,
Madurai – 625 008.

Vs The Assistant Commissioner of
Income Tax,
Non-Corporate Circle – 3,
Madurai.

PAN: AEAPT 3548N

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri N. Arjunraj, CA for Shri S. Sridhar,
Advocate
प्रत्यर्थी की ओर से/Respondent by : Ms. R. Anitha, JCIT

सुनवाई की तारीख/Date of hearing : 06.02.2020

घोषणा की तारीख /Date of Pronouncement : 13.02.2020

आदेश / O R D E R

PER INTURI RAMA RAO, ACCOUNTANT MEMBER:

These appeals filed by the Assessee are directed against the respective orders of the Commissioner of Income Tax (Appeals)-1, Madurai, (in short 'CIT(A)') dated 03.06.2019 for the Assessment Years 2009-10 & 2012-13.

2. The brief facts of the case are as under:

The appellant is an individual. Return of income for the assessment year 2009-10 was filed on 28.07.2009 disclosing income of Rs.3,64,185/-. Against the said return of income, the assessment was completed vide order dated 22.09.2011 passed U/s.143(3) of the Income Tax Act, 1961 (in short 'the Act') accepting the returned income. Subsequently, the assessment was reopened by issuing notice U/s.148 of the Act dated 07.03.2016. In response to it, the appellant filed the return of income on 10.03.2016 disclosing the same income as original return and the assessment was completed by an order dated 30.12.2016 passed U/s.143(3) r.w.s. 147 of the Act, at a total income of Rs.797,787/-, after making an addition of Rs.4,33,602/- U/s.14A of the Act, rejecting the contention of the appellant that no expenditure was claimed as deduction to earn exempt income. Being aggrieved by the above addition, an appeal was preferred before the CIT(A), who vide impugned order confirmed the action of the AO. Being aggrieved, the assessee is in appeal before us in the present appeal.

3. The Ld.Counsel vehemently submitted that no expenditure was claimed as deduction and therefore the question of disallowance

U/s.14A of the Act , does not arise, as no notional expenditure can be disallowed. He also filed the financial statement in support of his contentions. On the other hand, the Ld.DR had not opposed the above submissions.

4. We heard the rival submissions and perused the material on record. The only issue relates to the disallowance U/s.14A of the Act. Admittedly, the appellant had not made any claim for deduction of any expenditure under business head. Therefore it is settled position of law that no notional expenditure can be disallowed U/s.14A of the Act, in the absence of any actual expenditure incurred. The proviso to Rule 8D clearly provides that the amount of disallowance computed under the provisions of Rule 8D cannot exceed the actual expenditure incurred. In the light of these facts and legal position, we allow the appeal filed by the assessee.

5. For the assessment year 2012-13, the amount of expenditure claimed is only Rs.8000/-. Hence, the amount of disallowance is restricted to Rs.8000/-.

6. In the result, the appeals filed by the assessee for the assessment year 2009-10 is allowed and for the assessment year 2012-13 is partly allowed.

Order pronounced in the court on 13th February, 2020 at Chennai.

Sd/-

(धुव्वुरु आर एल रेड्डी)

(Duvvuru R.L Reddy)

न्यायिक सदस्य/Judicial Member

Sd/-

(इंटूरी रामा राव)

(Inturi Rama Rao)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 13th February, 2020.

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 |