

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH, CHENNAI, CAMP AT  
COIMBATORE.

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष  
**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.789/Chny/2019

(निर्धारण वर्ष / Assessment Year: 2013-14)

M/s. Seshasayee Paper & Boards Ltd, Vs The Assistant Commissioner of  
Cauvery R.S.P.O. Income Tax,  
Pallipalayam, Circle-1,  
Erode Namakkal.

**PAN: AACCS 1192G**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri G. Baskar, Advocate  
प्रत्यर्थी की ओर से/ Respondent by : Shri AR.V. Sreenivasan, JCIT,

सुनवाई की तारीख/Date of hearing : 04.02.2020

घोषणा की तारीख /Date of pronouncement : 04.02.2020

**आदेश /O R D E R**

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

This appeal of the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals), Salem dated 17.01.2019 and pertains to the assessment year 2013-2014.

2. The first issue arises for consideration is compensatory interest paid by the Central Excise Department on refund of tax credit.

3. Shri. G. Baskar, the Ld. Counsel for the assessee submitted that tax credit to the extent of Rs.15,49,280/- is a capital receipt and it is not chargeable to tax. In fact the Assessing Officer himself treated the tax credit as capital receipt. The dispute is only with regard to Rs.63,52,046/- towards interest as the tax credit of ₹15,49,280/-. Since the tax credit itself is a capital receipt, the interest on the tax credit should also take the same colour. Therefore, interest on tax credit is also a capital receipt and not taxable. The Ld. Counsel furtherance placed reliance on the judgment of the Bombay High Court in the case of *Rupesh Rashmikant Shah vs. Union of India, (2019) 108 taxmann.com 181 (Bombay)*.

4. The next ground of appeal relates to computation of book profit u/s.115JB of the Income Tax Act, 1961 (in short "the Act"). According to the Ld. Counsel, this ground was specifically raised before the CIT(A) as ground No.7. However, the same was not disposed off. Therefore, this ground may be remitted back to the file of the CIT(A). The assessee has taken one more ground with regard to the carry forward of losses to the next assessment year.

5. On the contrary, Shri AR.V. Sreenivasan, the Ld. Departmental Representative submitted that interest of Rs.63,52,046/- is for delayed refund of tax credit by the Customs and Central Excise Department and therefore it is a revenue receipt which is liable for taxation. As far as computation of book profit u/s.115JB of the Act is concerned, even though specific ground was raised by the assessee, the CIT(A) has not disposed off. Therefore, the matter may be remitted back to the file of the CIT(A). The next ground is with regard to carry forward of losses. The Ld. DR submitted that this matter may be decided by the Tribunal on merits.

6. We have considered the rival submissions on either side and perused the material available on record. This Tribunal is of the considered opinion that even though the assessee has raised specific ground with regard to computation of book profit u/s.115JB of the Act in ground No.7, it was not disposed off by the CIT(A). It needs to be disposed off by the CIT(A) at the first instance. Whether interest on tax credit given by the Custom and Excise Department is a revenue receipt or capital receipt are also needs to be re-examined by the CIT(A). Since major two issues are remitted back to the file of the CIT(A), this Tribunal is of the considered opinion that carry forward loss to the next assessment year also needs to be re-examined by the CIT(A). Accordingly, orders of

both the authorities below are set aside and all the issues are remitted back to the file of the Commissioner of Income Tax (Appeals) for fresh consideration.

7. In the result, the appeal filed by the assessee in ITA No.789/CHNY/2019 for assessment year 2013-2014 is allowed for statistical purpose.

Order pronounced in the court on 4<sup>th</sup> February, 2020 at Camp at Coimbatore

Sd/-  
( एस जयरामन )  
(S. Jayaraman)  
लेखा सदस्य /Accountant Member

Sd/-  
(एन.आर.एस. गणेशन)  
(N.R.S. Ganesan)  
न्यायिकसदस्य/Judicial Member

चेन्नई/Coimbatore,  
दिनांक/Dated, the 4<sup>th</sup> February, 2020.

**KV**

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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|------------------------|--------------------------|-----------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकरआयुक्त (अपील)/CIT(A) |
| 4.आयकरआयुक्त/CIT       | 5. विभागीयप्रतिनिधि/DR   | 6. गार्डफाईल/GF             |