

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, ' B' 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.1771/CHNY/2018
निर्धारण वर्ष /Assessment year : 2011-2012.

Shri. P. Ragunathan,
No.2, A.A Road
(Near Shanthi Theatre)
Dhadubaikuttai,
Salem 636 001.

Vs. The Deputy Commissioner of
Income Tax,
Circle III,
(Presently ACIT, Circle-I)
Salem.

[PAN AAYPR 3825L]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri. T.S. Lakshmi Venkatraman, C.A.
प्रत्यर्थी की ओर से /Respondent by : Shri. J. Pavitran Kumar, IRS, 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 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 12.03.2018 and pertains to the assessment year 2011-12.

2. Shri. T.S. Lakshmi Venkatraman, the Id. Representative for the assessee submitted that assessee is a partner in M/s. S. A Poultry Farm. The sale proceeds of the partnership firm was deposited in the individual account of the assessee with Indian Bank, in SB No. 711791958, Gugai Branch, Salem. Referring to Section 14 of the Indian Partnership Act, the Id. Representative submitted that any money deposited in the name of partner belongs to the partnership firm. Therefore, it cannot be treated as unaccounted deposit u/s.68 of the Income Tax Act, 1961 (in short "the Act"). On a query from the Bench, when the Assessing Officer finds that the assessee is not a partner in the partnership firm, how the deposit could be treated as that of the firm, the Id. Representative very fairly submitted that the matter may be remitted back to the file of the Assessing Officer for reconsideration and the assessee is ready and willing to prove that the assessee is also one of the partner in partnership before the Assessing Officer. The Id. Representative further submitted that for the assessment year 2012-2013, the Assessing Officer after reopening the assessment found that the money deposited in the very same bank account belongs to the partnership firm.

3. On the contrary, Shri. Pavitran Kumar, Id. Departmental Representative submitted that assessee is not a partner in the partnership firm and there was no transaction with the partnership

firm also. The assessee engaged himself in the business of textile and he is not connected with the partnership firm. Therefore, the Assessing Officer rightly treated the entire amount as his income u/s.68 of the Act.

4. Having heard the Ld. Representative of the assessee and Id. Departmental Representative, this Tribunal is of the considered opinion that the matter needs to be re-examined by the Assessing Officer since assessee specifically claimed that he is a partner in M/s. S.A. Poultry Farm and the Assessing Officer also accepted his contention for the assessment year 2012-2013. Accordingly, the orders of both the authorities below are set aside and the entire issue raised by the assessee is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the matter on the basis of the copy of the partnership deed that may be filed by the assessee, thereafter decide the issue afresh in accordance with law after giving reasonable opportunity of hearing to the assessee.

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

Order pronounced in the open court on 7th 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

Coimbatore,
दिनांक/Dated: 7th February, 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 |