

आयकर अपीलीय अधिकरण , ' ए ' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
"A " BENCH, CHENNAI

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. 1919/Chny/2019

निर्धारण वर्ष/Assessment Year : 2010-11

M/s. R.G.S Transports,
No.1, MCL Complex,
Cement Nagar, Alathiyur Post,
Sendural Taluk,
Ariyalur District – 621 730

The Income Tax Officer,
Vs. Ward -2,
Parambalur.

[PAN: AABFR 4017M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. Saroj Kumar Parida, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. AR V Sreenivasan, JCIT

सुनवाईकीतारीख/Date of Hearing

: 19.11.2019

घोषणाकीतारीख/Date of Pronouncement

: 12.02.2020

आदेश/ O R D E R

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the order of the
Commissioner of Income Tax (Appeals)-1, Trichy in ITA No. 12/2013-
14/CIT(A)-1/TRY dated 03.05.2019 for assessment year 2010-11.

2. M/s. RGS Transports, the assessee, is a firm engaged as a contractor for transporting cement for Madras Cement Ltd., by engaging lorries on hire. While making the assessment for assessment year 2010-11, the AO made a disallowance u/s. 40A(3) stating that it has incurred expenditure exceeding Rs. 20,000/- otherwise than by an A/c payee cheque drawn on a bank or by account payee bank draft in a single day. Aggrieved, the assessee filed an appeal before the CIT(A). The Ld. CIT(A) dismissed the appeal. Aggrieved against that order, the assessee filed this appeal.

3. The Ld. AR submitted that the assessee was acting as an agent and hence as per Rule 6DDK, he could not be held liable u/s. 40A(3). As per Form 3CD, the assessee has mentioned to be a "forwarding agent lorry transporter". The assessee was mainly handling the work of M/s. Ramco Cements Ltd, who had appointed the assessee as a forwarding agent. The assessee pleaded before the lower authorities that 40A(3) would not be applicable to assessee. Further, some of the hire charges were required to be paid on Sundays and many a times in night when the banks were closed and hence the assessee had a genuine business reasons to make the impugned payment in cash. Though the Ld. CIT(A) recorded the finding that it has noticed that all transport operators are generally acting as agents for various parties while sending/procuring goods, however, he dismissed the appeal

stating that section 40A(3) will apply to assessee who is acting as an agent. Per contra, the Ld. DR supported the orders of the lower authorities.

4. We heard the rival submissions. It is clear from the above that the assessee was a contractor for transporting cement for Madras Cement Ltd by engaging lorries for hire. It is pleaded that the impugned payments were made on Sundays and many a times late in the nights when the banks were closed for the genuine business reason and it was required to be done as an agent, which is covered under Rule 6DDK. Considering the nature of assessee's business, we are of the view that the disallowance made by the AO is not warranted and hence allow the corresponding grounds of the assessee's appeal.

5. In the result, the assessee's appeal is allowed.

Order pronounced on Wednesday, 12th February, 2020 at Chennai.

Sd/-

(एन.आर.एस .गणेशन)

(N.R.S. GANESAN)

न्यायिकसदस्य/Judicial Member

Sd/-

(एसजयरामन)

(S. JAYARAMAN)

लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 20th February, 2020

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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