

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस जयरामन, लेखा सदस्य केसमक्ष

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No. 2141/Chny/2018

निर्धारण वर्ष/Assessment Year : 2006-07

Shri. K. Palanivel,
SP 75, SIDCO Industrial Estate,
Ambattur,
Chennai – 600 058.

Vs. The Assistant Commissioner of
Income Tax,
Corporate Circle 1(4),
Chennai.

[PAN: AAKPP 1837A]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. J. Pavithran Kumar, JCIT

सुनवाईकीतारीख/Date of Hearing

: 13.02.2020

घोषणाकीतारीख/Date of Pronouncement

: 14.02.2020

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)- 4 in ITA No. 7/2010-11/AY
2006-07/CIT(A)-4 dated 05.04.2018 for assessment year 2006-07.

2. The Ld. AR submitted that the appeal was filed with a delay of 42 days. The Ld. AR submitted that the appellate order was misplaced in the office of the Chartered Accountant without sharing the information with the assessee. When the assessee was in the process of closing the books of account, it came to light and hence he immediately took steps to retrieve the order and filed the appeal which was beyond the control of the assessee and the delay in filing the appeal was neither wilful or deliberate. Therefore, it was pleaded that the delay in filing the appeal of 42 days be condoned in the interests of justice.

3. We heard the rival submissions and condone the delay.

4. Shri. K. Palanivel, an individual, is a managing director in the company M/s. Dexterity Business Analysts (P) Ltd. His assessment for assessment year 2006-07 was reopened and the AO added Rs. 15 lakhs to the returned income as deemed dividend u/s. 2(22)(e) and completed the assessment. Aggrieved, the assessee filed an appeal before the CIT(A) and the Ld. CIT(A) dismissed the appeal. Aggrieved against that order, the assessee filed this appeal.

5. The Ld. AR submitted that though he questioned the Jurisdiction on validity of reopening the assessment u/s. 147, the Ld. CIT(A) erred in rejecting the ground challenging the Jurisdiction u/s. 147 without

assigning proper reason and justification. The AR submitted that the Ld. CIT(A) failed to appreciate that there is lack of fresh materials and failure to follow the procedure prescribed by the Apex Court in the decision reported in 259 ITR 19 and hence the assessment made is vitiated and hence it required to be quashed. Per contra, the Ld. DR supported the order of the Ld. CIT(A).

6. We heard the rival submissions. It is clear from the record that the return filed for assessment year 2006-07 on 31.07.2006 was processed u/s. 143(1) on 04.06.2007. The Assessing Officer reopened and completed the reassessment. Since the assessee questioned the validity of the Jurisdiction, the AO may supply the reasons for reopening the assessment to the assessee, on which if the assessee files objection, if any, the same may be disposed by a speaking order as per the Apex Court's decision in the case of 259 ITR 19. Thereafter, the Assessing Officer may proceed to decide the issues in accordance with the procedure laid down by the Apex Court in the case of GKN Driveshafts India Ltd vs ITO, 259 ITR 19 (SC).

7. In the result, the assessee's appeal is treated as allowed for statistical purposes.

Order pronounced on Friday, 14th February, 2020 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /Vice President

Sd/-
(एसजयरामन)
(S. JAYARAMAN)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 14th 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