

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' 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.3173/Chny/2019  
(निर्धारण वर्ष / Assessment Year: 2014-15)

**Shri Lalith Kumar,**  
No.B-1, Kaj Plaxa, No.17/7,  
Narsinghpuram Street,  
Mount Road, Chennai – 600 002.

Vs The Income Tax Officer.  
Non-Corporate Ward 9(1),  
Chennai.

**PAN: ADAPL3202A**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri Pawan Chakrapani, CA  
प्रत्यर्थी की ओर से/Respondent by : Shri AR.V. Sreenivasan, JCIT

सुनवाई की तारीख/Date of hearing : 18.02.2020  
घोषणा की तारीख /Date of Pronouncement : 03.03.2020

**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)–10, Chennai dated 10.10.2019 and pertains to the assessment year 2014-15.

2. Shri Pawan Chakrapani, the Ld. Representative for the assessee submitted that he could not appear before the CIT(A) due to

his illness. Even though the CIT(A) called for certain details including the books of account, the same could not be filed before the CIT(A) only because of his illness. Therefore, the Ld. representative for the assessee submitted that the issue may be remitted back to the file of the Assessing Officer. The Ld. representative for the assessee further submitted that the assessee is maintaining the books of account and the books of account were audited. Therefore, there is no reason for rejecting the books of account and estimating the income. According to the Ld. representative, the Assessing Officer without any reason rejected the books of account and estimated the net profit at 5% of the turn-over. When the assessee maintained the books of account, there is no reason to estimate the profit. The Ld. representative further submitted that the assessee is ready and willing to produce the necessary material including the books of account, audited statement before the Assessing Officer. Therefore, the matter may be remitted back to the file of the Assessing Officer for reconsideration.

3. On the contrary, Shri AR.V. Sreenivasan, the Ld. Departmental Representative submitted that the CIT(A) called for the details of cash available with the assessee, bank accounts and the list of products purchased, sold by the assessee. Since the chartered accountant

was said to be not well, the CIT(A) specifically asked the assessee to produce the details and it may not be necessary to appear in person. In respect of this instruction of the CIT(A), no details were filed. Therefore, the CIT(A) has rightly confirmed the order of the Assessing Officer. On a query from the Bench, when the assessee is now willing and ready to produce the necessary material, what is the difficulty for the Department to re-examine the same. The Ld.DR submitted that when the assessee is ready to produce the material, the Department is willing to re-examine the same on the basis of the material that may be produced by the assessee.

4. Having heard the Ld.representative for the assessee and the Ld.DR, this Tribunal is of the considered opinion that the details called for by the CIT(A) by a notice dated 05.09.2019, was not complied with by the assessee. According to the assessee, the assessee's representative was not well, therefore, he could not produce the details. The illness of the representative of the assessee is not in dispute. When the assessee engaged a chartered accountant to represent the case before the CIT(A) and he could not appear before the CIT(A) because of his illness, this Tribunal is of the considered opinion that the matter needs to be re-examined by the authorities

below. Since the assessee has to file fresh material including the books of account and other details, this Tribunal is of the considered opinion that the Assessing Officer is the right person to re-examine the material. Accordingly the orders of both the authorities below are set aside and the entire issue is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the same afresh in the light of the material that may be filed by the assessee, thereafter decide the matter afresh in accordance with law, after giving a reasonable opportunity to the assessee.

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

Order pronounced in the court on 3<sup>rd</sup> March, 2020 at Chennai.

Sd/-

( एस जयरामन )

(S. Jayaraman)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 3<sup>rd</sup> March, 2020.

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

- |                        |                          |                              |
|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT     | 5. विभागीय प्रतिनिधि/DR  | 6. गार्ड फाईल/GF             |

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member