

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.152/CHNY/2018

&

C.O. No. 59/CHNY/2018

[in ITA No.152/Chny/2018]

(निर्धारण वर्ष / Assessment Year: 2008-09)

The Asst. Commissioner of
Income Tax,
Corporate Circle 3(1),
Chennai – 34.

Vs **M/s. TamilNadu Salt Corporation Ltd.,**
No.735, LLA Building,
Anna Salai, Chennai – 600 002.

PAN: AA ACT 2482L

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

राजस्व की ओर से /Revenue by

: Shri AR.V. Sreenivasan, JCIT

निर्धारिती की ओर से /Assessee by

: Shri Arun Kurian Joseph, Advocate

सुनवाई की तारीख/Date of hearing

: 20.02.2020

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 Revenue is directed against the order passed by the Commissioner of Income Tax (Appeals)–11, Chennai dated 26.09.2017 and pertains to the assessment year 2008-09. The assessee also filed cross objection against the very same order of

CIT(A) challenging the reopening of the assessment by issuing notice U/s.148 of the Income Tax Act, 1961 (in short 'the Act').

2. During the course of hearing Shri Arun Kurian Joseph, the Ld. Counsel for the assessee submitted that he was instructed not press the cross objection. The Ld.Counsel has also made an endorsement to that effect in the appeal folder. In view of the above, the cross objection of the assessee is dismissed.

3. Now coming to the appeal of the Revenue, the only issue is with regard to disallowance of Rs.2,19,04,595/- paid by the assessee towards additional royalty on the basis of the order of Government of TamilNadu.

4. Shri AR.V. Sreenivasan, the Ld. Departmental Representative submitted that the assessee has paid additional royalty to the extent of Rs.2,19,04,595/- to the State Government on the basis of the Government Order. According to the Ld.DR, the income accrued to the assessee, the subsequent payment to the Government would nothing but an application of income. Therefore, it cannot be allowed

as revenue expenditure. The Ld.DR further submitted that the payment of nomination charges is also application of income.

5. We heard Shri Arun Kurian Joseph, the Ld.Counsel for the assessee also. The Ld.Counsel submitted that additional royalty was paid on the salt manufactured by the assessee company to the State Government as per the Government order. Therefore, it is a diversion of income by overriding title. Hence, the CIT(A) has rightly allowed the claim of the assessee. Referring to the order of this Tribunal in ITA No.1487 of 2015 dated 18.03.2016, the Ld.Counsel submitted that nomination charges were allowed as revenue expenditure by this Tribunal in the case of TamilNadu Medicinal Plant & Herbal Medicine Corporation Ltd., Vs. ACIT. Therefore, the additional royalty as well as nomination charges has to be allowed as revenue expenditure.

6. Having heard the Ld.Counsel for the assessee and the Ld.DR, we have carefully gone through the materials available on record including the impugned orders of both the authorities below. Admittedly, the assessee company is wholly owned company of

Government of TamilNadu for manufacturing salt. The Government of TamilNadu in G.O.Ms. No.59 dated 06.02.2008 levied additional royalty on the salt manufactured by the assessee on the Government land leased to the assessee company. The assessee being a Government company cannot ignore the directions of the State Government. The Government order in G.O. Ms.No.59 clearly says that in order to meet the commitment made by the Government for carrying out Tsunami Reconstruction works in the Coastal Districts in the State, additional royalty was levied on the salt manufactured. It is not in dispute that the royalty is levied on the salt manufactured i.e., the product manufactured by the assessee. It is not for acquisition of any capital asset. The matter would stand differently in case the royalty was levied for giving lease of land to the company. In such case, one may argue that royalty was for acquisition of capital asset. In this case, admittedly the land was leased out to the assessee by the State Government and royalty was levied only on the salt manufactured. Therefore this Tribunal is of the considered opinion that additional royalty levied by the State Government in G.O.Ms.No.59 dated 06.02.2008, is nothing but a payment which is in the nature of revenue. In other words, the payment has the effect

of overriding title. Hence it has to be allowed as revenue expenditure. In view of the above, this Tribunal do not find any reason to interfere with the order of the lower authority.

7. In the result both the appeal of the Revenue and the cross objection of the assessee stand dismissed.

Order pronounced in the court on 3rd March, 2020 at Chennai.

Sd/-

(एस जयरामन)

(S. Jayaraman)

लेखा सदस्य /Accountant Member

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 3rd March, 2020.

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|-------------------------|-------------------------|------------------------------|
| 1. निर्धारिती /Assessee | 2. राजस्व/Revenue | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF |