

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

' B' BENCH : CHENNAI

श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष

एवं एस जयरामन, लेखा सदस्य

**BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER &
SHRI S.JAYARAMAN, ACCOUNTANT MEMBER**

I.T.A.No.328/Chny/2019

Assessment year : 2012-13

**M/s.S.R.M.Pharmaceutical
Distributors,**

D-41,5th Cross, N.E.E.,
Thillai Nagar, **Tiruchirapalli**
620 018.

[PAN AAHFS 9255 J]

(अपीलार्थी/Appellant)

Vs.

Income Tax Officer,
Ward 3(2),

Tiruchirapalli
620 018.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr.Sanjeev Aitya,C.A

प्रत्यर्थी की ओर से /Respondent by

: Mr.A.Sundararajan,Addl.CIT.DR

सुनवाई की तारीख/Date of Hearing

: 05-03-2020

घोषणा की तारीख /Date of Pronouncement

: 29-05-2020

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.195/2015-16/CIT(A)-1/Trichy, dated 18.12.2018 for the assessment year 2012-13.

2. M/s.S.R.M.Pharmaceutical Distributors, the assessee is engaged in the business of wholesale and retail sales of medicines. While completing the assessment for the impugned assessment year, the A.O. held that assessee claimed interest deductions in respect of

unsecured creditors without deducting TDS on such payments. Therefore, the A.O disallowed the assessee's interest claim under Section 40(a)(ia) of the Act. Aggrieved against the order of Ld. A.O., the assessee preferred an appeal before the learned CIT(A). On appeal, learned CIT(A) partly allowed the appeal. Aggrieved against that order, the assessee filed this appeal before the Tribunal.

3. Before us, the Ld. A.R. submitted that creditors were either assessed to tax or had income below the taxable minimum. The deductor had obtained Form 15G/15H. Further, the assessee submitted before the learned CIT(A) that second proviso to section 40(a)(ia) of the Act inserted by the Finance Act, 2012 is retrospective with the main provision since 2005 and that such interpretation was upheld by certain Courts, although all such pleas were put forth before the learned CIT(A), the learned CIT(A) without considering the assessee's plea, upheld the disallowance made by the A.O. to an extent of ₹.9,35,007/- under section 40(a)(ia) of the Act. Therefore, Ld. A.R pleaded to allow the assessee's appeal.

4. Per contra, Ld. D.R. supported the order of the learned CIT(A).

5. We have heard the rival submissions and perused the material available on record. When the assessee has pleaded before the learned CIT(A) that it has obtained Form No.15G/15H and pleaded

that second proviso to section 40(a)(ia) of the Act inserted by the Finance Act, 2012 is retrospective, the learned CIT(A) should have examined the assessee's claim in a proper perspective. Since it was not made, we deem it fit to remit this issue back to the file of A.O for a fresh examination. The assessee shall place relevant materials in support of its contentions before the A.O. and comply with the requirements of the A.O. in accordance with law. The A.O after affording effective opportunity to the assessee and due examination, shall decide the matter on merits.

6. In the result, the appeal of assessee is partly allowed for statistical purposes.

Order pronounced on 29th May, 2020 at Chennai.

Sd/-
(धुव्वुरु आर.एल रेड्डी)
(DUVVURU RL REDDY)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-
(एस जयरामन)
(S. JAYARAMAN)
लेखा सदस्य/Accountant Member

चेन्नई/Chennai

दिनांक/Dated: 29th May,2020.

K S Sundaram

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