

**आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई**

IN THE INCOME TAX APPELLATE TRIBUNAL  
' C' BENCH : CHENNAI

श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष  
एवं श्री रमित कोचर, लेखा सदस्य

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER &  
SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.197/Chny/2020

निर्धारण वर्ष /Assessment year : 2011-12

**Shri G.Shankar,**  
15-16,VNS Garden,  
Ramakrishnapuram,  
**Thanjavur 613 007.**

**Vs.** Deputy Commissioner of  
Income Tax,  
Circle 2(1),  
Trichy.

**(अपीलार्थी/Appellant)**

**[PAN ASYPS 3522 M]  
(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से /Respondent by

: Mr.B.Ramakrishnan,FCA  
: Ms.Vijayaprabha,Addl.CIT D.R

सुनवाई की तारीख/Date of Hearing

: 08-06-2020

घोषणा की तारीख /Date of Pronouncement

: 08-06-2020

**आदेश / O R D E R**

**PER GEORGE MATHAN, JUDICIAL MEMBER**

This is an appeal filed by the assessee against the order of the Commissioner of Income-tax (Appeals)-1, Trichy in appeal No.296/2015-16/CIT(A)-1/TRY dated 29.11.2019 for the assessment year 2011-12 dismissing the appeal of assessee. This Appellate Proceedings are held through Video Conferencing.

2. Mr.B.Ramakrishnan represented on behalf of the Assessee, and Ms.Vijayaprabha represented on behalf of the Revenue.

3. It was submitted by the Ld. A.R. that the assessee is an individual. On the basis of AIR information that assessee had made various cash deposits in the bank account of ICICI, Savings Bank Account during the relevant assessment year, notice under Section 148 of the Act has been issued to the assessee. As the assessee had not produced proof or prove the source for cash deposits of ₹.64,31,000/- and another loan amount of ₹.3,24,30,000/- received from Shri P.Jeeva, who had not responded to the notices issued by the A.O. seeking confirmation from the lender, the same had been added to the income of the assessee. It was further submitted by the Ld. A.R. that on appeal, the learned CIT(A) had called for Remand Report. It was submitted that in para 3.7, the learned CIT(A) had called for remand report considering the non-production of evidences by the assessee. It was a further submission that in para 3.8, learned CIT(A) after alleging the lacka daisical attitude on the JCIT, Circle-1,Thanjavur, disposed of the appeal by dismissing the assessee's appeal. It was submitted by the Ld. A.R. that the assessee's company, M/s.Peekay Mediequip Limited was making losses and in order to review and reviving the company, the assessee was occupied with structural planning and was consequently unable to produce the confirmation letters as called for.

It was a further submission that the assessee's company ended up being taken over by the bankers from September, 2016, and the assessee was also engaged in finalizing the one time settlement with United Bank of India, Calcutta. It was also a submission that the said Shri P.Jeeva was out of Chennai during the period, when the letter was issued to him, and consequently his confirmation letter was also not made available to the Department. It was a further submission that however, the assessee has now been able to obtain the confirmation letters and the same is placed on record in the form of additional evidence under Rule 29 of the Income Tax Appellate Tribunal Rules, 1963. It was a prayer that the issues raised in the appeal may be restored to the file of learned CIT(A) for re-adjudication.

4. In reply, the Ld. D.R. submitted that the reasons given by the assessee are vague and the assessee has not co-operated in either the assessment proceedings or the First Appellate proceedings. It was a prayer that as confirmation letters were also not substantiated, the order of the learned CIT(A) was liable to be upheld. It was further submitted by the Ld. D.R. that if at all the issues were going to be restored for re-adjudication on account of applicability by Rule-29 ITAT Rules, then the issues must be restored to the file of A.O. for proper verification.

5. We have heard the rival submissions through Video Conferencing and perused the material available on record. We have also perused the petition in terms of Rule-29 of ITAT Rules, which has been filed by the assessee, as also the evidences submitted along with the said petition. In the petition, the assessee has substantially admitted that he was not able to produce the requisite evidences on account of financial hardships that were being faced by the assessee's company, which admittedly had forced the assessee to take the said loan. The assessee has produced the confirmation letters from the two persons also. The file also contains an order from the National Company Law Tribunal, Division Bench, Chennai against M/s.Peekay Mediequip Limited, under Section 7 read with Rule 4 of the Insolvency and Bankruptcy Code, 2016, vide order dated 13.08.2019. The said evidences clearly show that the company, in which the assessee is a Managing Director, is actually in financial difficulties. When the very source of income of assessee is in trouble, the assessee would first try to protect his source of income. This being so, we find that the reasons given by the assessee in his Petition under Rule-29 of ITAT Rules, is substantiated and the assessee was prevented by sufficient cause in not producing the evidences in time either before the Assessing Authority, or before the CIT(A). However, considering that the evidences produced in the form of confirmation letters have been

produced for the first time before the Tribunal, we have not inclined to accept the prayer of the assessee that the issues raised in the appeal must be restored to the file of learned CIT(A). For the proper appreciation of the evidences, we are of the view that in line with the submissions of the Ld. D.R., the issues in this appeal must be restored to the file of A.O. for re-adjudication after granting the assessee adequate opportunity to substantiate his case and we do so.

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

Order pronounced in the open court after conclusion of hearing on 08<sup>th</sup> June, 2020, at Chennai.

Sd/-  
(रमित कोचर)

**(RAMIT KOCHAR)**

**लेखा सदस्य/Accountant Member**

Sd/-  
(जॉर्ज माथन)

**(GEORGE MATHAN)**

**न्यायिक सदस्य/JUDICIAL MEMBER**

चेन्नई/Chennai

दिनांक/Dated: 08<sup>th</sup> June, 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