

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL 'C' BENCH: CHENNAI

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री एस. जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

**I.T.A. No.850/Chny/2019
Assessment Year: 2009 - 2010**

Mr. S. Sivaperumal [HUF],
No.52, Karunalayaa,
Ram Nagar, Kumarasamipatti,
Salem – 636 007.

The Income Tax Officer,
Ward – 2(3),
Vs. No.3, Gandhi Road,
Salem – 636 007.

[PAN: AAUHS 9889P]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Mr. S. Sridhar, Advocate
: Mrs. R. Anita, JCIT

सुनवाई की तारीख/Date of Hearing

: 04.11.2020

घोषणा की तारीख /Date of Pronouncement

: 18.11.2020

आदेश / ORDER

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the Assessee is directed against the order of the learned Commissioner of Income Tax (Appeals), Salem in Appeal No.247/2016-17, dated 25.01.2019 relevant to the assessment year 2009 - 2010.

2. The brief facts of the case is that the Assessee is in the business of operating 'Harvester Machines', filed his return of income declaring a total income of Rs.1,45,810/-. The return filed by the Assessee was initially processed u/s.143(1) of the Income Tax Act, 1961 and thereafter the assessment was re-opened by issuing a notice u/s.148 dated 28.03.2016 and the assessment was completed u/s.143(3) r.w.s.147 of the Income Tax Act, 1961.

3. The case of the Assessee is that he has received an amount of Rs.14,49,000/- by operating the Harvester Machines and after incurring various expenditures, the net income of the assessee is of Rs.4,49,000/- The Assessing Officer is of the opinion that the entire amount received by the Assessee is the net income and therefore wanted to tax the entire receipts based on the bank statement. The same view has been confirmed by the learned Commissioner of Income Tax (Appeals)

4. We have heard both the sides, perused the materials available on record and gone through the orders of the authorities below.

5. We find that the entire receipts from the operation of Harvester Machines cannot be considered as the net income of the Assessee as to run a machine, particularly the Harvester Machine, diesel & oil and repairs and maintenance are to be taken into account. Therefore, the

Assessing Officer is not justified by considering the entire amount as income of the Assessee.

The Assessee after deducting the expenditure incurred has offered correctly a net income of Rs.4,49,000/-. In our view, the same has to be taxed.

6. Thus, the Assessment Order passed by the Assessing Officer and confirmed by the learned Commissioner of Income Tax (Appeals) are set aside and the appeal of the Assessee allowed.

7. In the result, the appeal of the Assessee in I.T.A.No.850/Chny/2019 is allowed.

Order pronounced on 18th November, 2020 in Chennai.

Sd/-

(श्री एस. जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(वी दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai, दिनांक/Dated: 18th November, 2020

IA, Sr. P.S

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