

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH, CHENNAI  
श्री न्यायाधीश पी.पी. भट्ट, अध्यक्ष एवं श्री जी.मंजुनाथ, लेखा सदस्य के समक्ष  
BEFORE SHRI JUSTICE P.P.BHATT, PRESIDENT  
AND SHRI G.MANJUNATHA, ACCOUNTANT MEMBER

**I.T.A.No.2555/Chny/2017**

(निर्धारणवर्ष / Assessment Year: 2014-15)

M/s. New Era Travel & Cargo Agencies, 627, Mount Road, Chennai-600 006.	Vs	The Assistant Commissioner of Income Tax, Non-Corporate Circle-3, Chennai.
PAN: AAAFN2423Q		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. D.Anand, Advocate
प्रत्यर्थीकीओरसे/Respondent by	:	Mr. Abani Kanta Nayak, CIT

सुनवाईकीतारीख/Date of Virtual hearing	:	09.12.2020
घोषणाकीतारीख /Date of Pronouncement	:	20.01.2021

**आदेश / ORDER**

**PER G.MANJUNATHA, AM:**

This appeal filed by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-4, Chennai dated 30.08.2017 and pertains to assessment year 2014-15.

2. The assessee has raised the following grounds of appeal:-

*"1. The order passed by learned Commissioner of Income Tax (Appeals) - 4 is against the facts of the case and principles of nature justice.*

*2. The contention of the learned Commissioner of Income Tax (Appeals) is not totally correct.*

*3. There were total two appeals for two different Assessment Years.*

*4. The appellant had appeared for the hearing, but details for other year under appeal was only called for.*

*5. The appellant was of the impression that only one year was taken at a time and hence did not provide any written submissions for the relevant year under appeal.*

*6. This was unintentional and purely coincidental.*

*7. The learned Commissioner of Income Tax (Appeals) failed to appreciate the fact that an agent in ravel industry can never make a net profit of 5% of his turnover,*

*8. The learned Commissioner of Income Tax (Appeals) erred in confirming the order without application of mind.”*

3. Brief facts of the case are that the assessee is a partnership firm, filed its return of income for the assessment year 2014-15 on 30.11.2014 declaring total income of ₹ 23,75,250/-. The case was selected for scrutiny and during the course of assessment proceedings, the Assessing Officer noticed that there is mismatch between turnover reported in return of income filed for the relevant assessment year and gross receipts as per Form 26AS, therefore, called upon the assessee to furnish necessary evidences including reconciliation between the turnover reported in books of account and turnover as per Form 26AS. In response, the assessee submitted

that turnover reported as per Form 26AS, includes amount paid by customers towards reimbursement of expenses, whereas turnover reported in financial statements is excluding reimbursement of expenses and hence there is a difference in turnover as per books of account and receipts as per as per Form 26AS. The Assessing Officer, in order to verify claim of the assessee called upon the assessee to produce books of account, but the assessee failed to produce books of account including details of reimbursement of expenses. Therefore, the Assessing Officer proceeded to pass ex-parte best judgment assessment u/s.144 r.w.s. 145(3) and estimated net profit of 5% on total receipts as per Form 26AS and made addition of ₹ 21,27,182/-.

4. Being aggrieved by the assessment order, the assessee preferred an appeal before the learned CIT(A) . Before the learned CIT(A), the assessee neither appeared nor filed any details despite various opportunity of hearing was provided. Therefore, the learned CIT(A) left with no option disposed off the appeal filed by the assessee ex-parte and confirmed the additions made by the Assessing Officer towards estimation of profit on turnover reported

as per Form 26AS. Aggrieved by the order of CIT(A), the assessee is in appeal before us.

5. The learned AR for the assessee submitted that the assessee could not appear before the lower authorities to explain difference between turnover reported in books of account and gross receipts as per Form 26AS and hence, appeal may be set aside to the Assessing Officer to give one more opportunity of hearing to the assessee to explain difference in turnover with necessary reconciliation.

6. The learned DR on the other hand, submitted that assessee has failed to file necessary reconciliation explaining the reasons for difference in turnover as per books of account and gross receipts as per Form 26AS and hence, there is no need to give another opportunity to the assessee to go before the Assessing Officer .

7. We have heard both the parties, perused the material available on record and gone through the orders of authorities below. It is an admitted fact that Assessing Officer has passed assessment order in the absence of books of account and estimated profit on the

basis of turnover reported in Form 26AS. Even before the learned CIT(A), the assessee could not appear and file necessary details to explain the difference between turnover reported in books of account and in Form 26AS. No doubt, it is the obligation of the assessee to appear before the authorities and explain its case with necessary evidence. In case, the assessee fails to appear and file necessary details, then the authorities left with no option has to complete the assessment on the basis of the materials available on record. In this case, the assessee has filed explanation before the Assessing Officer regarding difference in turnover reported in books of account and turnover as per Form 26AS, but could not produce books of account to justify its claim. It is not the case of the Assessing Officer that assessee has not filed explanation to explain difference in turnover reported in books of account and Form 26AS . The only reason for rejection of explanation furnished by the assessee is non-furnishing of books of account. Moreover, the learned AR for the assessee pleaded before us that assessee is ready to file necessary details to explain difference between turnover reported in books of account and Form 26AS. Therefore, we are of the considered view that in order to give one more

opportunity of hearing to the assessee, the appeal is set aside to the file of the Assessing Officer and direct him to redo the assessment, after considering necessary evidence filed by the assessee including reconciliation explaining the difference between turnover reported in books of account and Form 26AS . Needless to say, the assessee shall appear before the Assessing Officer without seeking any adjournment and file necessary details for speedy completion of assessment proceedings.

8. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court on 20<sup>th</sup> January, 2021

Sd/-  
( न्यायाधीश पी.पी. भट्ट )  
(Justice P.P.Bhatt )  
अध्यक्ष / President

Sd/-  
(जी. मंजुनाथ)  
(G. Manjunatha)  
लेखा सदस्य / Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 20<sup>th</sup> January, 2021

DS

आदेश की प्रतिलिपि अद्येषित/Copy to:

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