

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

श्री धुव्वुरु आर. एल रेड्डी, न्यायिक सदस्य एवं, श्री एस जयरामन, लेखा सदस्य समक्

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

आयकर अपील सं./I.T.A. No: 1705/Chny/2018

निर्धारण वर्ष/Assessment Year : 2013-14

M/s. Renaatus Projects (P) Ltd.,  
156, Mullamparappu,  
N.G. Palayam,  
Erode – 638 115.

Vs. The Deputy Commissioner of  
Income Tax,  
Central Circle -2,  
Coimbatore.

**[PAN: AACR 1851J]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/Appellant by

: Shri. S. Sridhar, Advocate

प्रत्यर्थीकीओरसे/Respondent by

: Shri. Suresh Periasamy, JCIT

सुनवाईकीतारीख/Date of Hearing

: 14.06.2021

घोषणाकीतारीख/Date of Pronouncement

: 21.06.2021

**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)- 18, Chennai in ITA No. 290/16-17 dated 06.03.2018 for the assessment year 2013-14.

2. M/s. Renaatus Projects P. Ltd., the assessee, incurred loss of Rs. 29,82,328/- from various derivative transactions carried out in commodities on the MCX (one of the commodity stock exchange) and claimed it as an expenditure for the assessment year 2013-14. While making the assessment u/s. 143(3), the AO disallowed the assessee's claim observing that commodities are not covered by the Securities Contracts (Regulation) Act, 1956. Therefore, they are not covered by the provisions of section 43(5)(d) of the Income Tax Act. Aggrieved, the assessee filed an appeal before the CIT(A). The Ld. CIT(A) dismissed the appeal. Aggrieved against that order, the assessee filed this appeal.

3. The case was heard through video conferencing. The Ld. AR inviting our attention to the order of the Ld. CIT(A), wherein the additional grounds/submissions filed by the assessee are extracted, submitted that the assessee's transactions by way of commodity derivatives through recognised stock exchange was not to be taxed as speculative income up to the assessment year 2013-14 in view of the section 43(5)(d) of the Income Tax Act. Since, the subject matter of appeal is related to AY 2013-14, clause (e) of section 43(5) is not applicable. However, the Ld. CIT (A) without adjudicating this specific aspect, invoking S43(5)(e) dismissed the appeal and hence the AR pleaded that this issue may be remitted back to the Ld. CIT(A) for an adjudication as to whether the assessee's transaction is covered u/s. 43(5)(d) or not as was

pleaded in its additional grounds before the Ld. CIT(A). Per contra, the Ld. DR supported the orders of the lower authorities.

4. We heard the rival submissions. We find that the assessee has in the additional grounds specifically pleaded before the Ld. CIT(A) that the impugned transactions undertaken during the period relevant to the assessment year 2013-14 is falling within the scope of section 43(5)(d) and hence it cannot be taxed as a speculative income. We find that the Ld. CIT (A) has not adjudicated this matter. Therefore, we remit this issue back to the Ld. CIT (A) for giving due opportunity to the assessee and decide the specific grounds taken by the assessee in accordance with law.

5. In the result, the assessee's appeal is treated as allowed for statistical purposes.

Order pronounced on 21<sup>st</sup> June, 2021 at Chennai.

**Sd/-**

(धुव्वुरु आर. एल रेड्डी)

**(DUVVURU RL REDDY)**

**न्यायिकसदस्य/Judicial Member**

**Sd/-**

(एस जयरामन)

**(S. JAYARAMAN)**

**लेखासदस्य/Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated: 21<sup>st</sup> June , 2021

**JPV**

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent

4. आयकरआयुक्त/CIT 5. विभागीयप्रतिनिधि/DR

3. आयकरआयुक्त) अपील(/CIT(A)

6. गार्डफाईल/GF