

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

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री जी मंजूनथ, लेखक सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1001/Chny/2017
निर्धारण वर्ष /Assessment Year: 2012-13

M/s. The KTM Jewellery Ltd.,
Vivagaa Building,
636, Oppanakara Street,
Coimbatore – 641 001.
[PAN: AABCK 7104P]
(अपीलार्थी/Appellant)

The Asst. Commissioner of
Income Tax,
Vs. Corporate Circle-2,
Coimbatore.
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr. T. Vasudevan, Advocate
प्रत्यर्थी की ओर से /Respondent by : Mr. Suresh Periasamy, JCIT

सुनवाई की तारीख/Date of Hearing : 15.07.2021
घोषणा की तारीख /Date of Pronouncement : 22.07.2021

आदेश / ORDER

PER SHRI V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-1, Coimbatore in Appeal No.129/15-16 dated 28.02.2017 relevant to the Assessment Year 2012-13.

2. The only issue involved in this appeal in respect of disallowance made u/s. 40(a)(ia) of the Income Tax Act, 1961 (hereafter 'the Act'). In the assessment order, the A.O has noted that on perusal of the

assessment records, it is seen that the assessee has debited an amount of Rs. 49,20,688/- in the profit and loss account towards assessee's share of common expenses. During the course of assessment proceedings, the A.O has asked the assessee to produce proof of having deducted taxes at source on the expenditure incurred. The assessee has submitted before the A.O that the TDS has been deducted by sister concerns and this was only a reimbursement. However, the assessee has not filed any detail before the A.O. Accordingly, the A.O has disallowed the claim u/s. 40(a)(ia) of the Act of Rs. 49,20,688/-. On appeal, the Ld. CIT(A) confirmed the order of the A.O.

3. On appeal before us, the Ld. Counsel for the assessee has filed a paper book consisting of 21 pages pointed out that the TDS deducted by the sister concerns and submitted that these details already filed before the Ld. CIT(A) and the Ld. CIT(A) without considering the same confirmed the order of the A.O and submitted that the issue may be remitted back to the A.O.

4. On the other hand, the Ld. D.R has not raised any objection to remit the matter back to the A.O.

5. We have heard both the sides through video conferencing, perused the materials available on record and gone through the orders

of the authorities below. In this case, the assessee has not filed TDS as deducted by the sister concerns before the A.O. He has only filed details before the Ld. CIT(A). The Ld. CIT(A) without considering the details in respect of TDS, confirmed the order of the A.O. In view of the above facts and circumstances of the case, we are of the opinion that one more opportunity should be given to the assessee to substantiate it's case before the A.O. Accordingly, we set aside the order passed by the Ld. CIT(A) and remit the matter back to the file of A.O and direct the A.O to consider the details filed by the assessee in respect of TDS deducted by sister concerns and pass fresh assessment *de novo* in accordance with law. Accordingly, this appeal is allowed for statistical purpose.

6. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced on 22nd July, 2021 in Chennai.

Sd/-
(श्री जी मंजूनथ) [Signature]
(G. MANJUNATHA)

लेखासदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai, दिनांक/Dated: 22nd July, 2021.
EDN, Sr. P.S

Sd/-
(वी दुर्गा राव) [Signature]
(V. DURGA RAO)
न्यायिक सदस्य/**JUDICIAL MEMBER**

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