

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

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री जी मंजूनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A No.1733/Chny/2019
Assessment Year: 2014 - 2015

Shri. A. Lakshmanan,
No.172-1, Mahatma Street,
Bank Colony, Athikulam,
Madurai – 625 014

Commissioner of Income Tax-1
No.2,
Vs. V.P. Rathinasamy Nadar Road,
Bibikulam,
Madurai – 625 001.

[PAN: ABVPL 0612M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Mr. T. Vasudevan, Advocate
: Mr. Srinivasa Rao, CIT

सुनवाई की तारीख/Date of Hearing

: 10.08.2021

घोषणा की तारीख /Date of Pronouncement

: 17.08.2021

आदेश / ORDER

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is against the order of the learned Principal Commissioner of Income Tax, Madurai-1 in C.No. 401/77/PCIT/MDU-1/2018-19/ dated 21.03.2019, relevant to the Assessment Year 2014 – 2015.

2. Facts are in brief that the Assessee is an individual carrying in the business of commission on repledge of jewels, filed his return of income

declaring a total income of Rs.3,68,720/-. The Assessing Officer completed the assessment u/s.143(3) of the Income Tax Act, 1961 dated 29.11.2016 by making an addition of Rs.8,18,720/- .

3. Subsequently, the learned Principal Commissioner of Income Tax by exercising the powers conferred upon him u/s.263 of the Income Tax Act, 1961 has noted that on examination of the assessment records for the Assessment Year 2014 – 2015, it I revealed that during the financial year 2013 – 2014, the Assessee has paid interest to various finance and banking institutions through the three branches of the Assessee to the tune of Rs.82,31,494/- but failed to deduct tax while making payments. The Assessing Officer has not examined during the course of the assessment proceedings. Therefore, the order passed by the Assessing Officer is erroneous and prejudicial to the interest of the Revenue and asked the Assessee to explain.

4. In response to that, the Assessee has submitted that the Assessing Officer after making a complete enquiry made the addition on account of the interest payment to the tune of Rs.4,50,000/- and therefore the order passed by the Assessing Officer is neither erroneous nor prejudicial to the interest of the Revenue.

5. The Assessee's Authorized Representative, Shri S.P. Velayutham appeared before the learned Principal Commissioner of Income Tax and

requested that, if at all any enquiry is required; the matter may be remitted back to the Assessing Officer.

6. The learned Principal Commissioner of Income Tax, after examining the facts of the case and also by considering the request made by the Assessee's Authorized Representative, remitted the issue back to the file of the Assessing Officer to examine the issue afresh in accordance with law and after giving an opportunity to the Assessee to substantiate his case.

7. On being aggrieved, the Assessee carried the matter in appeal before the Tribunal. The learned Counsel for the Assessee had submitted that in respect of the interest payment made by the Assessee to the financial institutions and banks examined by the Assessing Officer and addition was made, therefore the learned Principal Commissioner of Income Tax has wrongly invoked the jurisdiction u/s.263 of the Income Tax Act, 1961 and submitted that the same may be cancelled.

8. On the other hand, the learned Departmental Representative has submitted that the Assessee's Authorized Representative himself asked the learned Principal Commissioner of Income Tax to remit the issue back to the Assessing Officer. Therefore, the learned Principal Commissioner of Income Tax has correctly exercised the jurisdiction u/s.263 of the Income Tax Act, 1961 and the same is submitted that it may be upheld.

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

10. In this case, the Assessee has paid interest amount to the financial institutions and banks to the extent of Rs.82,31,494/- and the Assessee has agreed for the addition of Rs.4,50,000/- on account of the interest payment. The Assessing Officer has accepted the same and the addition is made without making any enquiry. Subsequently, the learned Principal Commissioner of Income Tax by exercising the powers conferred upon him u/s.263 of the Income Tax Act, 1961 examined the records and found that the Assessing Officer has not examined the issue relating to interest payment and it is erroneous and prejudicial to the interest of the Revenue.

11. That apart, the Assessee's Authorized Representative himself appeared before the learned Principal Commissioner of Income Tax and requested to remit the issue back to the Assessing Officer for examining the same.

12. So, keeping in view the facts and circumstances of the case and also by considering the request made by the Assessee's Authorized Representative, the learned Principal Commissioner of Income Tax had

remitted back the issue to the Assessing Officer to examine the issue afresh in accordance with law.

13. Thus, we find no infirmity in the order passed by the learned Principal Commissioner of Income Tax and hence no interference is warranted.

14. In the result, the appeal filed by the Assessee in I.T.A. No.1733/Chny/2019 is dismissed.

Order pronounced on 17th August, 2021 in Chennai.

Sd/-

(श्री एस. जयरामन)
(S. JAYARAMAN)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(श्री वी दुर्गा राव)
(V. DURGA RAO)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 17th August, 2021

IA, Sr. PS

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