

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

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

आयकर अपील सं./ITA No.1742/Chny/2019
निर्धारण वर्ष /Assessment Year: 2012-13

M/s. L&T Shipbuilding Ltd.,
P.O Box No.979,
Mount Poonamallee Road,
Manapakkam,
Chennai – 600 089.
[PAN: AABCL 4108N]
(अपीलार्थी/**Appellant**)

**The Dy. Commissioner of
Income Tax (OSD),**
Vs. Corporate Circle-4,
Chennai.
(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by

: Mr. Ashik Shah, C.A

प्रत्यर्थी की ओर से /Respondent by

: Mr. AR V Sreenivasan,
Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 03.11.2021

घोषणा की तारीख /Date of Pronouncement

: 26.11.2021

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)-8, Chennai in I.T.A No.181/15-16 dated 04.04.2019 relevant to the Assessment Year 2012-13.

2. In this case, the Assessing Officer (AO) has initiated the penalty proceedings and imposed penalty and the same is confirmed by the Ld. CIT(A) on the ground that the assessee-company had not offered the interest on bank deposits as well as income from sale of DEPB licenses for taxation. The assessee-company was obligated to offer this income of Rs. 4,15,54,233/- as pre operative income under the head income from other sources. Non offering the income for taxation is deliberate attempt and tax evasive act of filing wrong particulars and concealing the taxable income attracts penalty u/s. 271(1)(c) of the Income Tax Act, 1961 (hereinafter "the Act"). In view of the above observation, the Ld. CIT(A) has confirmed the penalty levied by the A.O of Rs. 1,50,00,000/- u/s. 271(1)(c) of the Act.

3. On being aggrieved, the assessee carried the matter in appeal before the Tribunal.

4. The ld. counsel for the assessee has submitted that the quantum appeal filed by the assessee before the ITAT, the Hon'ble ITAT has set aside the order passed by the Ld. CIT(A) and remitted the matter back to the A.O to adjudicate the issue afresh in accordance with law. He has further submitted that in view of the order passed by the Tribunal in the quantum appeal, penalty levied by the Ld. CIT(A) cannot survive and submitted that the same may be remitted back to the A.O.

5. On the other hand, the Ld. D.R has not raised any objection to the submission of the Ld. counsel for the assessee.

6. We have heard both the sides, perused the materials available on record and gone through the orders of the authorities below. We find that once the Tribunal has set aside the quantum appeal and remitted the matter back to the A.O to adjudicate the issue afresh, the penalty levied by the A.O on same count cannot survive and therefore, we remit the penalty proceedings also to the file of the A.O to initiate proceedings as per law after deciding the quantum appeal. In view of the above, we cancel the order passed by the Ld. CIT(A) and remit the matter back to the file of A.O to decide the issue afresh in accordance with law. Thus, the appeal filed by assessee is allowed for statistical purposes.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 26th November, 2021 in Chennai.

Sd/-

(श्री जी मंजूनाथा)

(G. MANJUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(वी दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai, दिनांक/Dated: 26th November, 2021.

EDN/-

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