

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No.375/Chny/2020
निर्धारण वर्ष/Assessment Year: 2017-18

M/s. Imperial Granites P. Ltd.,
76, Cathedral Road, Gopalapuram,
Chennai 600 086.

The Deputy Commissioner of
Income Tax,
Vs. Centralize Processing Center,
Bengaluru 650 500.

[PAN:AAACI2721B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri D. Palanivel, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri R. Boopathi, JCIT
सुनवाई की तारीख/ Date of hearing : 22.12.2021
घोषणा की तारीख /Date of Pronouncement : 05.01.2022

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 6, Chennai dated 29.11.2019 relevant to the assessment year 2017-18.

2. The appeal filed by the assessee is delayed by three days, for which, the assessee has filed a petition for condonation of the delay in support of an affidavit, to which; the Id. DR has not raised any serious objection. Consequently, since the assessee was prevented by

sufficient cause, the delay of three days in filing of the appeal stands condoned and the appeal is admitted for adjudication.

3. Brief facts leading to ground raised by the assessee are that the return filed by the assessee on 31.10.2017 for the assessment year 2017-18 admitting returned income of ₹.1,93,20,455/- was processed by the CPC and intimation under section 143(1) of the Income Tax Act, 1961 ["Act" in short] dated 03.04.2019 was communicated by making disallowance of ₹.25,57,978/- under section 40(a)(ia) of the Act since the assessee has mentioned payment of ₹.25,57,978/- in Column No. 21(b)(i) of the tax audit report on which no tax was deducted. On appeal, the Id. CIT(A) confirmed the disallowance made by the Assessing Officer and dismissed the appeal filed by the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the payments were inadvertently by mistake mentioned in the tax audit report under column No. 21(b)(i), which pertains to the payments made to non residents, instead of mentioning under column No. 21(B)(ii). It was submitted that the payments were made to residents only and only 30% disallowance is attracted as per section 40(a)(ia) of the Act. It was

also submitted that the CPC as well as Id. CIT(A) are considered that the payments were made to non-resident based on the audit report and 100% disallowance was made. It was further submission that the total disallowance under section 40(a)(ia) of the Act is at ₹.7,67,393/- out of which, the assessee has disallowed ₹.4,63,652/- and the balance to be disallowed is at ₹.3,03,741/- and prayed for suitable directions.

5. On the other hand, the Id. DR supported the orders of authorities below.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case, the assessee made following payments as shown in the tax audit report filed in the form of paper book page No. 8:

S.No.	Nature of payment and name of the payee	Amount (₹.)
1.	Labour charges paid to Venkateswaralu	30,160
2.	Rent paid to Swetha	5,06,236
3.	Rent paid to Smitha	5,06,236
4.	Rent paid to Rajamma	5,06,236
5.	Quarry maintenance – Anjaneer Engg. Works	10,09,110
	Total	25,57,978

Prima facie, it appears that the payments were made to “residents” only and not to “non-residents”. However, on perusal of the tax audit report, we find that the Tax Auditor has mistakenly mentioned the

payments made under column No. 21(b)(i), which should have been mentioned under column No. 21(B)(ii) since the assessee made the payments to only "residents". By considering the above facts and circumstances of the case, we set aside the order of the Id. CIT(A) and remit the matter back to the file of the Assessing Officer to verify the payments made by the assessee which are available in page No. 8 of the paper book and decide the issue afresh in accordance with law after affording an opportunity of being heard to the assessee.

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

Order pronounced on 05th January, 2022 at Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 05.01.2022

Vm/-

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.