

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.993/Chny/2019
निर्धारण वर्ष/Assessment Years: 2013-14

The Deputy Commissioner of
Income Tax, Central Circle 2(4)
Investigation Building,
Chennai 600 034.

Shri R.S. Suriya,
Vs. Prop: 36, Arcot Street, T. Nagar,
Chennai 600 017.

[PAN:ALRPS0353G]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri AR V. Sreenivasan, Addl. CIT
प्रत्यर्थी की ओर से/Respondent by : Ms. Jharna B. Harilal, C.A.
सुनवाई की तारीख/ Date of hearing : 03.01.2022
घोषणा की तारीख /Date of Pronouncement : 24.01.2022

आदेश / O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

The appeal filed by the Revenue is directed against the order of the Id. Commissioner of Income Tax (Appeals)-18, Chennai dated 27.11.2018 relevant to the assessment year 2013-14.

2. The appeal filed by the Revenue is delayed by 44 days in filing the appeal, for which, the Revenue has filed a petition for condonation of the delay, to which; the Id. Counsel for the assessee has not raised any serious objection. Consequently, since the Revenue was

prevented by sufficient cause, the delay of 44 days in filing of the appeal stands condoned and the appeal is admitted for adjudication.

3. Facts of the case are, in brief, that the assessee has filed his return of income on 05.09.2013 for the assessment year 2013-14 declaring total income of ₹.17,70,85,540/-. The case was selected for scrutiny and the assessment was completed under section 143(3) of the Income Tax Act, 1961 ["Act" in short] by determining the total income of ₹.21,70,85,540/-. In the assessment order, the Assessing Officer has taxed an amount of ₹.4,00,00,000/- received by the assessee as advance to act in feature film. The case of the assessee is that the advance received by the assessee for booking his dates to act in a feature film is not income in the year under consideration and therefore, it cannot be taxed in the year under consideration. However, the Assessing Officer has not accepted the explanation of the assessee and taxed the entire amount of advance received by the assessee. On appeal, the Id. CIT(A), by following the decision of the Coordinate Benches of the Tribunal in assessee's own case in I.T.A. Nos. 1944 to 1946/Mds/2014 dated 30.06.2015 for the assessment years 2004-05 to 2006-07 and also the decision of the Hon'ble Madras

High Court in the case of Lakshminarayana Films v. CIT 244 ITR 344, decided the issue in favour of the assessee. For the sake of convenience, the order of the Id. CIT(A) is extracted as under:

“6.4.2 Similarly, the Hon’ble ITAT in the order in ITA Nos. 1944 to 1946/Mds/2014 dated 30th June, 2015 for the A.Ys. 2004-05 to 2006-07 in the appellant’s own case in paras 7, 8, & 9 observed as under:

“...We also find that the co-ordinate Bench has distinguished the decisions relied on by the DR and the Jurisdictional HC decision in the case of Lakshminarayana Films vs. CIT while arriving at the conclusion that the advances received cannot be taxed as income of the assessee for the respective AYs.

8. It is also further noticed that in the assessee’s own case, the Tribunal for the A.Y. 2009-10 in ITA No. 1241/Mds/2013 by order dated 8.4.2015 has taken a similar view.....

9. Respectfully following the said order, we hold that the amounts received by the assessee from various producers towards advances cannot be assessed as income of the assessee. Therefore we set aside the orders of the lower authorities and delete the additions in respect of the advances treated as income of the assessee”.

6.4.2 In view of the judicial precedence and discipline and respectfully following the above decisions of the jurisdictional Tribunal in the assessee’s own case, the addition is directed to be deleted and the grounds are allowed.”

4. Aggrieved, the Department is in appeal before the Tribunal. The Id. DR strongly supported the order passed by the Assessing Officer.

5. On the other hand, the Id. Counsel for the assessee prayed that the order passed by the Id. CIT(A) may be upheld.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The only

issue involved in this appeal is relating to taxability of advance received by the assessee amounting to ₹.4,00,00,000/-. The case of the assessee is that the amount received by the assessee is towards acting in feature film in a future project is not income in the year under consideration and it is only an income when the contract is completed by acting in the movie. However, the explanation of the assessee was not accepted by the Assessing Officer and he was of the opinion that once the amount is received, it has to be taxed. On appeal, by following the decision of the Coordinate Benches of the Tribunal in assessee's own case for the assessment years 2004-05 to 2006-07, the Id. CIT(A) decided the issue in favour of the assessee. Before us, the Id. Counsel for the assessee has submitted that the very same amount was subjected to taxation in the assessment year 2014-15 and also submitted that the same amount cannot be taxed twice. By considering the entire facts and circumstances of the case and keeping in view of the decision of the Tribunal in assessee's own case, we direct the Assessing Officer to verify the same income is offered for taxation in subsequent assessment year and if the same is offered for taxation in the subsequent assessment year, it cannot be taxed in the

assessment year under consideration. In view of the above, the appeal of the Revenue is allowed for statistical purposes.

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

Order pronounced on 24th January, 2022 at Chennai.

Sd/-
[जी. मंजुनाथा, लेखा सदस्य]
(G. MANJUNATHA)
ACCOUNTANT MEMBER

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

Chennai, Dated, 24.01.2022

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.