

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं डॉ एम एल मीना, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
Dr. M.L. MEENA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: **418/CHNY/2020**
निर्धारण वर्ष /Assessment Year: 2012-13

**M/s. Seagull Clearing &
Forwarding Agencies P Ltd.,**
No.20, R.No.3, 2nd Floor,
Beach House Second Lane,
Beach Road, Parrys,
Chennai – 600 001.

The Income Tax Officer,
v. Corporate Ward 6(2),
Chennai.

PAN: AABCS 2390D

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri S. Sridhar, Advocate &
Shri N. Arjunraj, CA

प्रत्यर्थी की ओर से/Respondent by

: Shri. AR V Sreenivasan, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 07.03.2022

घोषणा की तारीख/Date of Pronouncement

: 09.03.2022

आदेश /O R D E R

PER BENCH:

This appeal by assessee is arising out of the order of the Learned Commissioner of Income Tax (Appeals)-15, Chennai in ITA No.97/2018-19/CIT(A)-15 dated 13.12.2019. The assessment was framed by the Income Tax Officer, Corporate Ward 6(2), Chennai

for the assessment year 2012-13 u/s.147 r.w.s.143(3) of the Income Tax Act, 1961 (hereinafter 'the Act') vide order dated 12.12.2018.

2. At the outset, Id.counsel for the assessee drew our attention to grounds of appeal and he fairly agreed that he is not prosecuting the ground of reopening i.e., Ground Nos.1 to 5. Hence, these grounds are dismissed as not argued.

3. The solitary issue remains is as regards to disallowance of transport charges of Rs.1,20,930/-, disallowance of warehousing charges of Rs.10,26,000/- paid to Balmer Lawrie & Co. Ltd., and disallowance of warehousing charges paid to All Cargo Global amounting to Rs.4,98,000/- for non-deduction of TDS u/s.194 of the Act by invoking provisions of section 40(a)(ia) of the Act. For this, assessee has raised Ground Nos.6 to 11, which need not to be reproduced.

4. We have heard rival contentions and gone through facts and circumstances of the case. We noted that the AO disallowed transportation charges of Rs.1,20,930/-, warehousing charges paid

to Balmer Lawrie amounting to Rs.10,26,882/- and warehousing charges paid to All Cargo Global amounting to Rs.4,98,685/- for non-deduction of TDS and thereby AO invoked provisions of Section 40(a)(ia) of the Act. Aggrieved, assessee preferred appeal before CIT(A). The CIT(A) also confirmed the action of AO. Aggrieved, now assessee is in appeal before the Tribunal.

5. Before us, the only plea made was that the matter can be referred back to the AO for verifying the applicability of second proviso to section 40(a)(ia) of the Act and in case, the recipients have declared these charges i.e., transportation charges and warehousing charges in their respective return of income, the same can be directed to be allowed. The Id. Senior DR has not raised any objection for this. We are of the view that the AO can verify whether the recipients have offered these expenses as income to tax and for that the assessee will file relevant details as prescribed under the second proviso to Section 40(a)(ia) of the Act before the AO. The AO by virtue of judgment of Hon'ble Delhi High Court in the case of CIT vs. Ansal Land Mark Township (P) Ltd., 377 ITR 635 will consider the claim of assessee and accordingly decide the same. In view of the above, we set aside the orders of lower authorities on

this issue on merit and restore the issue back to the file of the AO in term of the above directions.

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

Order pronounced in the court on 9th March, 2022 at Chennai.

Sd/-

(डॉ एम एल मीना)

(Dr. M.L. MEENA)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 9th March, 2022

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |