

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. Nos. 505 & 506/Chny/2019  
निर्धारण वर्ष/**Assessment Years:2010-11 & 2013-14**

Smt. Jaya Sivakumar,  
No. 201-207, H 3, Arihant Sloka,  
Secretariat Colony, Kilpauk,  
Chennai 600 010.

The Income Tax Officer,  
Vs. Non Corporate Ward 10(2),  
Chennai 600 034.

**[PAN:ADPPJ7765B]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Ms. S. Vidhya, FCA  
प्रत्यर्थी की ओर से/Respondent by : Ms. Ann L. Kapthuama, CIT  
सुनवाई की तारीख/ Date of hearing : 11.04.2022  
घोषणा की तारीख /Date of Pronouncement : 08.06.2022

**आदेश /O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

Both the appeals filed by the assessee are directed against different orders of the Id. Commissioner of Income Tax (Appeals) 12, Chennai, dated 26.09.2018 for the assessment year 2010-11 and Id. PCIT- 3, Chennai dated 27.03.2018 for the assessment year 2013-14.

2. Both the appeals filed by the assessee delayed by 79 days for the assessment year 2010-11 and 275 days for the assessment year 2013-14. By filing a petition for condonation of delay in the form of an Affidavit for both the assessment years explaining detailed reasons for the delay, the Id.

Counsel for the assessee has prayed for condoning the delay and admitting the appeals for adjudication. The Id. DR has not seriously objected to the submissions of the Id. Counsel. Since the assessee was prevented by reasonable cause for the delay in filing the appeals before the Tribunal, the delay in filing the appeals before the Tribunal are condoned and admitted the appeals for adjudication.

3. The first effective ground raised in the appeal for the assessment year 2010-11 relates to reopening of assessment under section 147 of the Income Tax Act, 1961 ["Act" in short]. During the course of hearing, the Id. Counsel for the assessee has not pressed the ground raised in the grounds of appeal. Accordingly, the ground raised by the assessee is dismissed.

4. The next effective ground raised in the appeal for the assessment year 2010-11 relates to confirmation of disallowance of expenses of ₹.5,92,160/-.

4.1 Brief facts of the case are that the assessee is an individual and working partner in three firms viz., M/s. Ganesh Metal Industries, M/s. Muthalamman Metal Industries and M/s. Ramana Metals. She also received salary, interest on capital and share of profits. The assessee filed her return of income for the assessment year 2010-11 on 31.01.2012 admitting an income of Rs.6,49,555/- and assessment under section 143(3) of the Act

was completed by accepting the returned income. Subsequently, the Assessing Officer has noticed from the assessment records that the assessee had received partner's remuneration of Rs.12,69,333/- from 3 firms and had also claimed expenses to earn the remuneration. As there was reason to believe that income had escaped assessment, the case was reopened by issuing notice under section 148 of the Act dated 31.03.2017. After considering the submissions of the assessee, the Assessing Officer has completed the assessment under section 143(3) r.w.s. 147 dated 27.12.2017 determining total income at ₹.12,41,720/- by disallowing ₹.5,92,160/- claimed to be expenses in relation to earning of remuneration and interest income of ₹.12,82,139/-. On appeal against the disallowance of expenses of ₹.5,92,160/-, after considering the submissions of the assessee, the Id. CIT(A) confirmed the addition.

4.2 Similar claim of expenses of ₹.6,12,548/- in the assessment year 2013-14 is also subject matter in appeal since the Id. PCIT has passed revision order under section 263 of the Act directing the Assessing Officer to redo the assessment.

4.2 On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the Id. CIT(A) has erroneously held that there is no nexus between the expenses incurred by

the assessee and the remuneration received. By filing confirmation along with the identity of the employees employed by the assessee for carrying out day-to-day activities, which was submitted before the Id. PCIT during revision proceedings for similar claim of expenses for the assessment year 2013-14 which was concluded prior to the appellate order for the assessment year 2010-11, the Id. Counsel has vehemently argued that the assessee has incurred the expenses and had a direct nexus to earning her remuneration and therefore prayed for allowance of expenses of ₹.5,92,160/- in the assessment year 2010-11 as well. The Id. Counsel for the assessee relied on the judgement of Hon'ble Supreme Court in the case of CIT v. Ramniklal Kothari in Civil Appeals Nos. 575 & 576 of 1966.

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

4.4 We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including paper book consist of confirmation letter of employees, allocation of work by firms to the assessee, salary given by firm to the staff in the firms in which the assessee is partner and profit and loss account of the firms, which were submitted during the revision proceedings with regard to the claim of expenses for the assessment year 2013-14 which was also subject matter in

appeal and the revision proceedings under section 263 of the Act was conducted and concluded first and thereafter the appeal proceedings was also concluded. In the assessment year 2010-11, the assessee has claimed expenses of ₹.5,92,160/- for earning income. The Assessing Officer disallowed the claim of expenses on the ground that the assessee could not file any books of accounts or any evidence in support of expenses incurred by the assessee and their nexus to the remuneration earned by the assessee.

4.5 On perusal of the appellate order, it would be evident at page 3 of the order, wherein, in the grounds of appeal, the assessee has submitted that against the explanation called by the Assessing Officer, the assessee has furnished copy of the reply submitted to the Id. CIT during revision proceedings. It was also submitted that the Assessing Officer has not gone through any evidences of proof of interest payment or salary payments and simply stated that the assessee would not have incurred any expenditure. Further, while concluding the appellate order, the Id. CIT(A) has observed as under:

*“5.3 ..... Since the above issue was already under examination and genuineness of expenses have already been called for a re-look by Commissioner by setting aside the order for AY 2013-14, the AR of the appellant should have submitted the necessary details at the time of appeal proceedings for the current year which is in appeal where same issue is being adjudicated. It is true that assessee is not prohibited from making any claim of expenditure which he has actually incurred and directly related to the income earned. In this case, the income is only remuneration and interest from three firms where assessee is a partner. The*

*concerned firms have already debited all expenses in their books of accounts in respect of the business activities. In such a scenario, it is for the assessee to substantiate with evidence that he has incurred expenses separately to earn his salary and interest income. ....”*

4.6 It is an undisputed fact that the assessee was a working partner in three firms viz., M/s. Ganesh Metal Industries, M/s. Muthalamman Metal Industries and M/s. Ramana Metals. In order to cope up with the firms' activities and as per allocation of work to the assessee-partner, such as, day-today banking operations, collections from parties in and around Chennai, staff management, production supervision, stock management & control and general office administration, etc., the assessee has engaged employees and made payments from her own remuneration. In fact, as per work allocation, the assessee-partner was permitted to hire personnel to assist her in clerical works by way of paying salary to them out of her share of partner salary received by her without any further delegation from the firm. On perusal of the details of employees engaged by the assessee and confirmation letters of having receipt of salary and also proved identity of the employees beyond doubt for the assessment year 2013-14, which is similar to the assessment year 2010-11 as has been submitted by the Id. Counsel for the assessee, we are of the considered opinion that the assessee should be allowed to claim the expenses incurred by her as the firms have already debited all expenses in their books of accounts in respect of the business activities. Moreover, the assessee was not prohibited from making such

claim of expenditure, which she has actually incurred and directly related to the income earned. Under the above facts and circumstances, the expenditure claimed by the assessee is allowed.

5. So far as appeal for the assessment year 2013-14 is concerned, the assessee has challenged the order passed by the Id. PCIT under section 263 of the Act, wherein, the claim of expenses of Rs. 6,12,548/- was under dispute. Similar claim of expenses for the assessment year 2010-11 has been accepted by the Tribunal, herein above, in lieu of furnishing confirmation from the employees and their identity for the assessment year 2013-14. Since the Tribunal has accepted similar claim of expenses for the assessment year 2010-11, the claim of expenses for the assessment year 2013-14 is also accepted and the revision order passed by the Id. PCIT for the assessment year 2013-14 is quashed.

6. In the result, both the appeals filed by the assessee are allowed.

Order pronounced on the 08<sup>th</sup> June, 2022 in Chennai.

Sd/-  
(G. MANJUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 08.06.2022

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.