

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. No.535/Chny/2020
निर्धारण वर्ष/Assessment Year: 2011-12

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

Vs. Shri Allahrakka Rahaman,
No. 5, Dr. Subbarayan Nagar, 4th Street,
Kodambakkam, Chennai 600 024.

[PAN: ADMPR0060J]

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri P. Sajit Kumar, JCIT
प्रत्यर्थी की ओर से/Respondent by : Shri D. Anand, Advocate
सुनवाई की तारीख/ Date of hearing : 24.05.2022
घोषणा की तारीख /Date of Pronouncement : 08.06.2022

आदेश /ORDER

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the Revenue is directed against the order of the Id. Commissioner of Income Tax (Appeals) 19, Chennai, dated 31.12.2019 relevant to the assessment year 2011-12.

2. The appeal filed by the Revenue is delayed by 4 days in filing the appeal before the Tribunal, for which, the Department 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 four days in filing of the appeal stands condoned and the appeal is admitted for adjudication.

2. Brief facts of the case are that the assessment under section 143(3) of the Income Tax Act, 1961 ["Act" in short] was completed in this case on 30.03.2014. Subsequently, the assessment was reopened under section 148 of the Act, but considering the fact that the contributions were assessed in the hands of M/s. A.R. Rahman Foundation, the Assessing Officer did not make any addition. Subsequently, the Id. PCIT, by exercising power under section 263 of the Act, directed the Assessing Officer to redo the assessment by his order dated 28.03.2018. Subsequently, the Assessing Officer completed the assessment order under section 143(3) r.w.s. 263 of the Act dated 31.12.2018. Meanwhile, against the order under section 263 of the Act, the assessee preferred further appeal before the Tribunal. Vide order in I.T.A. No. 1745/Chny/2018 dated 18.09.2019, the Tribunal quashed the revision order passed under section 263 of the Act. Against the order under section 143(3) r.w.s. 263 of the Act, the assessee preferred appeal before the Id. CIT(A) and the Id. CIT(A)

allowed the appeal filed by the assessee, against which, the Revenue preferred present appeal.

3. The Id. DR has submitted that the Id. CIT(A) has omitted to consider the fact that the assessee as a composer of a specific tune to Lebara has received the remuneration not only for the services rendered but also for parting with the copy rights and patents, commercials, performances and enhancement of such recordings and compositions, by him for Lebara Mobiles in his individual capacity and pleaded for setting aside the order passed by the Id. CIT(A) and restored that of the Assessing Officer.

4. On the other hand, the Id. Counsel for the assessee has submitted that once the order passed under section 263 of the Act has been quashed by the Tribunal, the assessment order passed under section 143(3) r.w.s. 263 of the Act has no legs to stand.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case, against the revision order under section 263 of the Act, the assessee preferred further appeal before the Tribunal vide order in I.T.A. No. 1745/Chny/2018 dated 18.09.2019, the Tribunal quashed the

revision order passed under section 263 of the Act. Therefore, the subsequent assessment order passed under section 143(3) r.w.s. 263 of the Act dated 31.12.2018 has no legs to stand and subsequent proceedings in lieu of order under section 143(3) r.w.s. 263 of the Act stands null and void. Accordingly, the appeal filed by the Revenue is not maintainable and liable to be dismissed. Thus, the appeal filed by the Revenue is dismissed.

6. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on the 08th June, 2022 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, the 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.