

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ **ITA No.55 & 56/Chny/2021**
(निर्धारण वर्ष / **Assessment Years: 2005-06 & 2009-10**)

M/s. Kodanad Estate C/o. Mr. K. Soundaravelan (FCA) 16 Gyan Apartments, 38 Venkatraman Street, T. Nagar, Chennai – 600 017.	बनाम/ Vs.	DCIT, Central Circle-2(2), Chennai.
स्थायी लेखा सं./जीआइ आर सं./ PAN/GIR No. AABFT-9733-C		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri T. Vasudevan (Advocate) – Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri ARV. Sreenivasan (Addl. CIT)-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	19-05-2022
घोषणा की तारीख / Date of Pronouncement	:	08-06-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeals by assessee for Assessment Years (AY) 2005-06 & 2009-10 having common issues arises out of separate orders of learned first appellate authority. The appeal for AY 2005-06 arises out of the order of Ld. Commissioner of Income Tax (Appeals)-18, Chennai [CIT(A)] dated 31.01.2020 in the matter of assessment framed by the Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 28.12.2007.

2. The Registry has noted a delay of 334 days in the appeals, the condonation of which has been sought by the assessee on the strength of condonation petition. The Ld. AR submitted that delay occurred due to lockdown situation arising out of Covid-19 Pandemic. Keeping in view the fact that the period starting from 15.03.2020 till 28.02.2022 is excluded by Hon'ble Supreme Court for limitation purposes in suo-motu writ petition (c) No. 3 of 2020 dated 10.01.2022, we condone the delay and admit the appeals for adjudication on merits.

3. In AY 2005-06, the assessee is aggrieved by (i) Adhoc disallowance of 20% of cultivation charges and Salaries / Wages; (ii) Disallowance of 66,854/- incurred on feeding the children. The Ld. AR advanced arguments and assailed the estimated disallowances which have been controverted by Id. Sr. DR. Having heard rival submissions, our adjudication, would be as under.

4. The assessee being resident firm is stated to be engaged in cultivation of Tea and as per Rule-7, it offers 40% of its income as taxable income. During assessment proceedings, it transpired that the assessee claimed cultivation expenses of Rs.130.46 Lacs and Salaries for Rs.103.31 Lacs. However in the absence of sufficient evidences forthcoming from the assessee, Ld. AO made adhoc disallowance of 20% against both the expenditure. Another addition of Rs.0.66 Lacs represents expenditure incurred on feeding the children. These additions, upon confirmation by Ld. CIT(A), is in further appeal before us.

5. Upon careful consideration, we find that the assessee is a firm and carry an organized business. No defects have been pointed out by lower authorities in the books of accounts maintained by the assessee. The estimated disallowance of 20% is mere adhoc disallowance without any

basis. It has been submitted that none of the expenditure, in earlier years have been disallowed. Keeping in all these factors, we direct Ld. AO to restrict the disallowance to the extent of 10% under both the heads. The disallowance of Rs.0.66 Lacs is confirmed since the details could not be furnished by the assessee. The appeal stand partly allowed.

AY 2009-10

6. In this year, the only disallowance for Rs.94.41 Lacs is on account of excess payment of Salaries & Wages. Taking 2006-07 as the base vis-à-vis production of Tea in that year and applying pay-hike of 25%, Ld. AO has computed the impugned disallowance. The addition, upon confirmation by Ld. CIT(A), is in further appeal before us.

7. We find that the computation of Ld. AO assumes that cost of salaries per Kg of Tea production should be directly proportional which is a fallacious assumption without establishing any such correlation. Therefore, taking the same view as in AY 2005-06, we direct Ld. AO to restrict the disallowance to 10% of aggregate Salaries of Rs.184.16 Lacs. The balance addition stand deleted. The appeal stand partly allowed.

8. Both the appeals stand partly allowed.

Order pronounced on 08th June, 2022.

Sd/-

(MAHAVIR SINGH)

उपाध्यक्ष / VICE PRESIDENT

चेन्नई / Chennai; दिनांक / Dated : 08-06-2022

EDN

Sd/-

(MANOJ KUMAR AGGARWAL)

लेखक सदस्य / ACCOUNTANT MEMBER

आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded 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