

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: **196, 197, 198 & 199/CHNY/2021**
निर्धारण वर्ष /Assessment Years: 2011-12 , 2012-13, 2013-14 & 2014-15

M/s. Sakthi Constructions,
102, Sheika Dawood Street,
III Floor, Erode – 638 001.

The DCIT,
v. Central Circle-2,
Coimbatore

PAN: ABNFS 9165J

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri S. Sridhar, Advocate
: Shri M. Rajan, CIT

सुनवाई की तारीख/Date of Hearing : 27.06.2022
घोषणा की तारीख/Date of Pronouncement : 27.06.2022

आदेश /O R D E R

PER BENCH:

These four appeals by the assessee against four different revision orders passed by the Principal Commissioner of Income Tax (Central), Chennai-2 u/s. 263 of the Income Tax Act, 1961 (hereinafter the 'Act') vide orders in Revision Nos. PCIT (Central), Chennai-2 / Revision-263 / 100000195498, 100000195499, 100000195502, & 100000195505/2021 of even date 27.03.2021. The assessments were framed by the DCIT, Central Circle-2, Coimbatore u/s.153 r.w.s. 143(3) of the for the assessment years

2011-12 to 2014-15 vide orders of even date 30.12.2017 & 31.12.2017.

2. At the outset, it is noticed that these appeals are barred by limitation by 20 days. During the course of hearing, the Id.counsel for the assessee stated that these appeals were filed during Covid-19 period and delay has occurred due to that and the Hon'ble Supreme Court in Miscellaneous Application No.665 of 2021 vide order dated 23.03.2020 has condoned the during this period 15.03.2020 to 14.03.2021 and they have condoned the delay up to 28.02.2022 in Miscellaneous Application No.21 of 2022 vide order dated 10.01.2022. In term of the directions of Hon'ble Supreme Court, we condone the delay in filing of these appeals by assessee and admit the appeals for adjudication.

3. The Id.counsel for the assessee stated that all these revision orders passed by PCIT were ex-parte. The Id.counsel for the assessee, for example took us through para 4 of PCIT's order in assessment year 2011-12, which reads as under:-

“ It is therefore apparent that during the course of Scrutiny Assessment Proceedings, the Assessing Officer had failed to properly investigate and examine the issue spelt out as and above accordingly, I hold that the Assessment Order under Section 153C rws 143(3) dated 31.12.2017 relating to the Assessment Year 2011-12 is both erroneous and prejudicial to the

interest of Revenue since it was passed without making necessary inquiries and verifications which ought to have been made, a Show Cause Notice under Section 263 dated 17.03.2021 was issued to the assessee pointing out the above factual position and it was asked to explain as to why the said assessment dated 31.12.2017, passed by the Assessing Officer, for A.Y. 2011-12, should not be revised u/s 263 of the Income-tax Act. In response to this office hearing, there was no response from the assessee till this date.”

3.1 The Id.counsel stated that in these years, show cause notice issued for show the cause was only less than 10 days. The Id.counsel stated that he has raised a specific issue of violation of principles of natural justice vide Ground No.9 which reads as under:-

“ The PCIT failed to appreciate that there was no proper opportunity given before passing of the impugned order and any order passed in violation of the principles natural justice would be nullity in law.”

The Id.counsel stated that he is only seeking one more opportunity before PCIT, so that he can explain the issues.

4. When these facts were confronted to Id. CIT-DR, he stated that the revision orders are passed within limitation period and there is no harm in allowing only 10 days and assessee should have replied to show cause notice, which the assessee failed. Hence, he contested the ex-parte order.

5. After hearing rival contentions and going through the revision orders and arguments of the Id.counsel of the assessee as well as Id. CIT-DR and the grounds raised by assessee regarding violation of

principles of natural justice, we feel that the assessee was provided a very short time fixing the case on 23.03.2021 by giving notice dated 17.03.201. Even otherwise, the period under consideration was Covid-19 period and hence reasonable time should have been provided. Hence, we set aside the orders of the PCIT revising the assessments and remand the matter back to his file for fresh adjudication after allowing reasonable opportunity of being heard to the assessee, as the assessee himself contended for. Hence, all these revision orders are set aside and matter remanded back to the file of the PCIT for fresh adjudication.

6. In the result, the appeals of the assessee are allowed for statistical purpose.

Order pronounced in the open court on 27th June, 2022 at Chennai.

Sd/-

(जी. मंजुनाथ)

(G. MANJUNATHA)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 27th June, 2022

RSR

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. |