

आयकर अपीलीय अधिकरण, ' बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL , 'B' 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

आयकरअपीलसं./I.T.A.No.2602/Chny/2019

(निर्धारणवर्ष / Assessment Year: 2001-02)

Mr. K.R.Subramanian Plot No.38, Murthy Street, Akkarai VGP East Coast Road, Chennai-600 119.	Vs	The Assistant Commissioner of Income Tax, Corporate Circle-3(1), Chennai.
PAN: ANJPS 3907Q		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. S.Sridhar, Advocate
प्रत्यर्थीकीओरसे/Respondent by	:	Mr. P.Sajit Kumar, JCIT

मुनवाईकीतारीख/Date of hearing	:	27.07.2022
घोषणाकीतारीख /Date of Pronouncement	:	29.07.2022

आदेश / O R D E R

PER G.MANJUNATHA, AM:

This appeal filed by the assessee is directed against order passed by the Commissioner of Income Tax(Appeals)-7, Chennai, dated 28.06.2019 and pertains to assessment year 2001-02.

2. Brief facts of the case are that the assessee was Managing Director of the company M/s.Tajmahal Agro Industries Pvt.Ltd., a company engaged in the business of purchase and sale of rice and also M/s.Peninsula Food Products P.Ltd., a company engaged in the business of export of rice. A survey u/s.133A of the Income Tax Act, 1961 was

conducted on 10.07.2002 and during the course of assessment proceedings, it was noticed that substantial sum was brought into company M/s.Tajmahal Agro Industries Pvt.Ltd. During the course of assessment proceedings, the Assessing Officer called upon the assessee to explain source of funds came into the company for which the assessee has explained that Mr. S.Chelliah, NRI, who is one of the directors has brought in substantial amount of money from his income and substantiated his claim by filing confirmation letter from the director. The Assessing Officer, however, was not convinced with the explanation furnished by the assessee and according to AO, although, there is confirmation from other director, but the assessee could not produce the person for examination and further, other person being NRI, it is difficult to examine claim of the assessee and thus, rejected arguments of the assessee and made additions towards unexplained investments. The assessee carried the matter in appeal before the first appellate authority and before the learned CIT(A), the assessee has reiterated his submissions made before the Assessing Officer and contended that Mr. S.Chelliah has brought in money from non-resident source for which necessary

confirmation from the party has been filed. The learned CIT(A) rejected arguments of the assessee only on the ground that although, there is confirmation from the party, but because Mr. S.Chelliah is a non-resident, it is difficult to summon other person and thus, rejected arguments of the assessee and confirmed additions made by the Assessing Officer. Aggrieved by the learned CIT(A) order, the assessee is in appeal before us.

3. We have heard both the parties, perused material available on record and gone through orders of the authorities below. The learned counsel for the assessee Mr.S.Sridhar and Mr.Arjunraj made a statement at bar that the assessee is willing to produce other director Mr. S.Chelliah before the Assessing Officer for examination and thus, one more opportunity of hearing may be given to the assessee to explain his case before the Assessing Officer for which the learned DR has not raised any objection. Therefore, considering fact that the assessee has filed certain evidences, including confirmation from the person, from whom amount has been received and also willing to produce the person before the

Assessing Officer, we deem it appropriate to set aside the issue to the file of the Assessing Officer and direct the AO to give one more opportunity of hearing to the assessee to produce Mr. S.Chelliah for verification. The assessee shall produce Mr. S.Chelliah before the Assessing Officer within two months from the date of receipt of this order. In case, the assessee fails to produce Mr. S.Chelliah, in person before the Assessing Officer, then the Assessing Officer is free to take decision in accordance with law.

4. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 29th July, 2022

Sd/-

Sd/-

(महावीर सिंह)

(Mahavir Singh)

उपाध्यक्ष/ Vice-President

चेन्नई/Chennai,

दिनांक/Dated 29th July, 2022

DS

(जी. मंजुनाथ)

(G. Manjunatha)

लेखा सदस्य / Accountant Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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