

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **91/CHNY/2021**

निर्धारण वर्ष /Assessment Year: 2013-14

**Vijay Shanthi Builders Ltd.,**  
No.3, 4<sup>th</sup> Floor, Vijaya Complex  
Blackers Road, Mount Road,  
Chennai – 600 002.

**The ACIT,**  
vs. Company Circle 3(2)  
Chennai.

**PAN: AAACV 2001R**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri D. Anand, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 30.08.2022

घोषणा की तारीख/Date of Pronouncement

: 30.08.2022

**आदेश /O R D E R**

**PER MAHAVIR SINGH, VICE PRESIDENT:**

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-13, Chennai in ITA No.311/A.Y.2013-14/CIT(A)-13 dated 23.09.2020. The assessment was framed by the ACIT, Corporate Circle 3(2), Chennai for the assessment year 2013-14 u/s.144 of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 03.03.2016.

2. At the outset it is noticed that this appeal is time barred by 130 days as the order of CIT(A) was received by assessee on 23.09.2020 and appeal was to be filed before Tribunal on or before 22.12.2020, instead the appeal was filed by assessee only on 01.04.2021 thereby delay of 130 days. The assessee has filed condonation petition stating that the delay was due to Covid-19 pandemic and the Hon'ble Supreme Court in Miscellaneous Application No.665 of 2021 vide order dated 23.03.2020 has given directions that the delay are to be condoned 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 this appeal by assessee and admit the appeal for adjudication.

3. The only issue raised by assessee in this appeal is as regards to the order of CIT(A) confirming the action of AO in disallowing provision for ascertained liability on account of being judgment debtor amounting to Rs.89,69,842/-.

4. The Id.counsel for the assessee before us stated that the assessee's claim is only to the extent of Rs.44,84,921/- which has been debited in the P & L account and for this, he drew our attention to

the remand report of the ACIT, which is reproduced in the order of CIT(A) and is being reproduced for the sake of clarity as under:

“...Since the assessee has already paid a sum of Rs.44,84,921/-, only this amount should have been debited in P&L account, whereas the assessee has deducted the entire legal charges of Rs.89,69,842/-. In this context, the actual payment only is allowable and hence the remaining amount of assessee's claim to the extent of Rs.44,84,921/- is to be dismissed.”

The assessee before CIT(A) contended that it had made provision of Rs.89,69,842/- towards breach of contract and this provision was made on account of civil dispute arose between the assessee and Jemi Pharmaceutical Ltd. The assessee has filed copy of Civil Suit No.1007 of 1999 filed before Hon'ble High Court of Madras. As per the directions of Hon'ble High court of Madras, the assessee had to pay only 50% of the decree amount i.e., Rs.44,84,921/- and since the assessee has paid only this sum of Rs.44,84,921/-, it is to be allowed and not the entire amount of Rs.89,69,842/- . The CIT(A) confirmed the action of AO by stating that the liability has accrued in the previous year 2011-12 relating to assessment year 2012-13 and not in the relevant assessment year 2013-14. According to Id. Senior DR, this order of Hon'ble High Court of Madras is dated 23.08.2011 and hence, the CIT(A) has rightly disallowed the liability.

5. On the other hand, the Id.counsel for the assessee took us through the copy of judgment and judgment was approved only on

24.04.2012. He drew our attention to page 4 of the judgment in C.S. No.1007 of 1999, which was finally approved by Hon'ble Mr. Justice S. Palanivelu on 24.04.2012. According to Id.counsel, once this judgment was only on 24.04.2012, the liability accrued only in assessment year 2013-14 i.e., the present assessment year.

6. We agree with the plea of the Id.counsel for the assessee that actually this liability became ascertained liability only on 24.04.2012 and it relates to assessment year 2013-14. We direct the AO to allow this liability.

7. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 30<sup>th</sup> August, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**  
उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 30<sup>th</sup> August, 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.            |