

**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, लेखक सदस्य के समक्ष।**

**BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**

**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ **ITA No.487/Chny/2018**

(निर्धारण वर्ष / **Assessment Year: 2013-14**)

<b>M/s. Mani Omega Fabrics</b> No. 2/217, Narayanapalayam, Karuveppampatti, Morur Post, Tiruchengode – 637 211.	<b>बनाम</b> / <b>Vs.</b>	<b>ACIT</b> Circle 1, Namakkal.
स्थायी लेखा सं./ जी आइ आर सं./ <b>PAN/GIR No. AATFM-3426-H</b>		
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओर से/ <b>Appellant by</b>	:	Shri Aniesh (Advocate) for Shri. T. Vasudevan (Advocate) – Ld. AR
प्रत्यर्थी की ओर से/ <b>Respondent by</b>	:	Shri AR V Sreenivasan (Addl CIT) – Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	28-09-2022
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	28-09-2022

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2013-14 arises out of the order of learned Commissioner of Income Tax (Appeals), Salem [CIT(A)] dated 07.12.2017 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 29.03.2016. The sole grievance of the assessee is disallowance

of partners' remuneration for Rs.59.70 Lacs u/s 40(b). The assessee is a firm and engaged in manufacturing of over fabrics. Having heard rival submissions, the appeal is disposed-off as under.

2. The assessee paid remuneration of Rs.59.70 Lacs to one of the partners namely Mr. Vishakar Mani. The remuneration was supported by amended deed dated 01.04.2012. However, raising doubts on the genuineness of the amended deed, Ld. AO opined that the deed was not registered one and the same was not produced in the assessment proceedings of other partner. Further, remuneration was paid in AY 2011-12 also whereas amended deed came into force w.e.f. 01-04-2012. It also transpired that Mr. Vishakar Mani set-off business losses against this income. Accordingly, the remuneration was disallowed. The Ld. CIT(A) confirmed the same against which the assessee is in further appeal before us.

3. We are of the considered opinion that the amended deed does not require mandatory registration. The perusal of amended deed of partnership would show that besides remuneration, it provides for payment of interest on capital and also define the Profit-sharing ratio of the two partners. The terms of the deed have been acted upon by both the partners. The firm has paid remuneration of Rs.59.70 Lacs but claimed deduction of Rs.57.82 Lacs in the computation of income which is maximum prescribed limit. The partner has offered the remuneration as Business Income. The set-off of losses has been done as per law. Merely because business-losses have been set-off against the same, the same could not be a ground to disallow remuneration in the hands of the firm. Therefore, the impugned addition is not sustainable in law. We order so.

4. The appeal stand allowed.

Order pronounced on 28<sup>th</sup> September, 2022.

**Sd/-**  
**(MAHAVIR SINGH)**  
**उपअध्यक्ष / VICE PRESIDENT**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
**लेखासदस्य / ACCOUNTANT MEMBER**

चेन्नई/ Chennai; दिनांक/ Dated : 28.09.2022  
JPV

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF