

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

श्री महावीर सिंह, उपाध्यक्ष एवं 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.: 3015/Chny/2019

निर्धारण वर्ष / Assessment Year: 2009-10

Assistant Commissioner of Income
Tax,
Corporate Circle -1(2),
Chennai – 600 034.

M/s. Cargowings (Madras)
v. Private Limited,
C-54, CMDA Truck Complex,
GNT Road, Madhavaram,
Chennai – 600 110.

[PAN: AABCC-9219-M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. P. Sajit Kumar, JCIT

प्रत्यर्थी की ओर से/Respondent by

: None

सुनवाई की तारीख/Date of Hearing

: 03.11.2022

घोषणा की तारीख/Date of Pronouncement

: 03.11.2022

आदेश / O R D E R

PER G. MANJUNATHA, ACCOUNTANT MEMBER:

This appeal filed by the Revenue is directed against the order passed by the learned Commissioner of Income Tax (Appeals)-1, Chennai, dated 13.08.2019 and pertains to assessment year 2009-10.

2. The Revenue has raised the following grounds of appeal:

- “1. The order of the CIT(A) is contrary to law, facts and circumstances of the case.
2. The Ld. CIT(A) has erred in not calling for a remand report on both the issues adjudicated.
3. The Id. CIT(A) has erred in directing the AO to verify the claim of the assessee which is not in accordance with the power given u/s. 251 of the IT Act, 1961.
4. For these and other grounds that may be adduced at the time of hearing, it is prayed that the order of the learned CIT(A) may be set aside and that of the AO restored.”

3. The brief facts of the case are that, the appellant company is engaged in the business of freight operator, transporting vehicles manufactured in Chennai to other parts of the country. The appellant had filed its return of income for the assessment year 2009-10 on 20.09.2009, admitting total income of Rs. Nil. The assessment had been completed u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) on 16.12.2011, and determined total income of Rs. 73,81,658/- u/s. 115JB of the Act, by making additions towards re-computation of depreciation on enhanced WDV of assets. The assessee carried the matter in appeal before the first appellant authority, and the Id. CIT(A) partly allowed appeal filed by the assessee, where the Id. CIT(A) directed the AO to verify the claim of the assessee with regard to re-computation of depreciation on enhanced WDV of assets and

also deduction towards credit in profit and loss account towards depreciation due to change in method.

4. The Ld. DR submitted that, although the Revenue has filed appeal against the order of the CIT(A), but the AO has challenged the powers of the CIT(A) u/s. 251 of the Act, in light of findings of the CIT(A), while adjudicating the issue of depreciation on enhanced WDV and amount credited to profit and loss account, on the ground that the CIT(A) does not have power to set aside the issue to the file of the AO. Otherwise, the CIT(A) has discussed the issue on merits and observed how to compute depreciation on enhanced WDV, in light of workings submitted by the assessee.

5. None appeared for the assessee. We have heard the Ld. DR and considered relevant materials available on record. We find that the Revenue has challenged the powers of the CIT(A) given u/s. 251 of the Act, and contended that the CIT(A) has set aside the appeal for further verification, even though, he does not have power to do so. We find that the CIT(A) has decided the issue involved in appeal filed by the assessee on merits and also discussed how the claim of the assessee

should be computed. However, for the limited purpose of verification of the claim of the assessee, a direction is given to the AO to re-work the depreciation in accordance with directions given in appellant order. Therefore, in our considered view, the findings given by the CIT(A) in their order dated 13.08.2019 is in accordance with provisions of section 251 of the Act, and thus, we reject the ground taken by the Revenue, that CIT(A) has exceeded in his powers to restore the appeal to the file of the AO.

6. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the court on 03rd November, 2022 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /Vice President

Sd/-
(जी. मंजुनाथ)
(G. MANJUNATHA)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 03rd November, 2022

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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