

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No.270/Chny/2022
निर्धारण वर्ष/Assessment Year: 2017-18

P. Manickam & Co.,
No. 41/21, Perambur Barracks Road,
Pattalam, Chennai 600 012.

Vs. The Assistant Commissioner of
Income Tax,
Non Corporate Circle 10(1),
Chennai 34.

[PAN:AAAFP0680R]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri P.G. Sadguru Das, CA
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 15.03.2023
घोषणा की तारीख /Date of Pronouncement : 24.03.2023

आदेश / O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi dated 22.03.2022 relevant to the assessment year 2017-18.

2. Facts are, in brief, that the assessee company is in the business of civil construction and filed its return of income for the assessment year 2017-18 declaring income of ₹.4,63,05,250/-. The case was selected for

limited scrutiny under CASS. Notice under section 143(2) of the Income Tax Act, 1961 ["Act" in short] dated 30.10.2019 and after following due procedure, the assessment was completed under section 143(3) of the Act dated 22.11.2019. In the assessment order, the Assessing Officer has noted that the assessee has claimed under "other expenses" an amount of ₹.3,20,000/- as chit loss. As the business of the assessee is only civil construction and execution of work contracts, the investment in the chit is in no way connected with the business of the assessee and the claim of the assessee is inadmissible. The Assessing Officer has followed the Hon'ble Madras High Court judgement in Tax Case Appeal No. 1023 of 2007 dated 22.08.2007 in the case of Shri Sunil Koliyot v. ITO, wherein, it was held that the chit loss was not allowable as a business loss for the reason that the assessee's business is only execution of work contracts and the investment in the chit and bidding chit for lower amount would not in any way have nexus with the business of the assessee. Since the assessee has admitted under other income an amount of ₹.1,82,050/- as dividend on chit, the net difference of ₹.1,37,900/- representing chit loss was disallowed and brought to tax. On appeal, the Id. CIT(A) confirmed the order of the Assessing Officer by following the judgement of the Hon'ble Madras High Court in the case of Shri Sunil Koliyot v. ITO (supra).

3. On being aggrieved, the assessee carried the matter in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the chit amount has been used for the purpose of business and therefore, the loss incurred by the assessee has to be allowed as business loss. He further submitted that as per CBDT Circular No. 1175 dated 16.05.1978, the loss has to be allowed.

4. On the other hand, the Id. DR has submitted that the issue involved in this appeal is squarely covered against the assessee in view of the judgement of the Hon'ble Madras High Court in the case of Shri Sunil Koliyot v. ITO (supra).

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The only issue involved in this appeal is whether the chit loss incurred by the assessee has to be allowed as business loss or not. In this case, the business of the assessee is only civil construction and execution of work contracts and therefore, the investment in the chit is in no way connected with the business of the assessee and the claim of the assessee is not admissible. Moreover, in the case of Shri Sunil Koliyot v. ITO (supra), the Hon'ble Jurisdictional High Court has held that the chit loss was not allowable as a business loss for the reason that the assessee's business is only

execution of work contracts and the investment in the chit and bidding chit for lower amount would not any way have nexus with the business of the assessee. By following the above decision of the Hon'ble High Court, the Assessing Officer made the disallowance, which was confirmed by the Id. CIT(A). Once the Hon'ble High Court has expressed a view through its judgement, the Board circular has no application. In view of the above judgement of the Hon'ble Jurisdictional High Court, we find no infirmity in the orders of authorities below. Accordingly, the ground raised by the assessee is dismissed.

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

Order pronounced on 24th March, 2023 at Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 24.03.2023

Vm/-

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.