

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

आयकर अपील सं./I.T.A. No.1716/Chny/2019
निर्धारण वर्ष/Assessment Year: 2013-14

The Deputy Commissioner of
Income Tax,
Corporate Circle 1(2),
Chennai 600 034.

Vs. M/s. Caplin Point Laboratories Ltd.,
No. 3, Narbavi, Lakshmanan Street,
T. Nagar, Chennai 600 017.

[PAN:AABCC2667F]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri P. Sajit Kumar, JCIT
प्रत्यर्थी की ओर से/Respondent by : Shri R. Vijayaraghavan, Advocate
सुनवाई की तारीख/ Date of hearing : 17.07.2023
घोषणा की तारीख /Date of Pronouncement : 26.07.2023

आदेश / O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the Revenue is directed against the order of the Id. Commissioner of Income Tax (Appeals) 1, Chennai, dated 07.03.2019 relevant to the assessment year 2013-14.

2. The appeal filed by the Revenue is delayed by two days in filing the appeal, for which, the Revenue has filed an affidavit for condonation of the delay, to which; the Id. Counsel for the assessee has not raised any serious objection. Consequently, since the Revenue was prevented by

sufficient cause, the delay of two days in filing of the appeal stands condoned and the appeal is admitted for adjudication.

3. Brief facts of the case are that the assessee filed its return of income for the assessment year 2013-14 on 29.11.2013 admitting total income of ₹.13,62,31,320/- under normal provisions and at ₹.18,27,99,500/- under section 115JB of the Income Tax Act, 1961 ["Act" in short]. In the original return of income, the assessee has claimed only 100% deduction under section 35(2AB) of the Act. However, in the revised return of income, the assessee claimed deduction under section 356(2AB) of the Act at 200%. The return filed by the assessee was selected for scrutiny under CASS. After considering the various details and submissions of the assessee, the Assessing Officer has completed the assessment under section 143(3) of the Act dated 29.03.2016 assessing total income of the assessee at ₹.17,21,01,070/- by making various additions. On appeal, the Id. CIT(A) partly allowed the appeal of the assessee by remitting back the issues of disallowance made under section 80IC of the Act, disallowance of deduction claimed under section 35(2AB) and disallowance of provision for gratuity for fresh consideration.

4. Aggrieved, the Revenue is in appeal before the Tribunal. The Id. DR has submitted that the Id. CIT(A) remitted back the issues of

disallowance made under section 80IC of the Act, disallowance of deduction claimed under section 35(2AB) of the Act and disallowance of provision for gratuity is in contravention of section 251(1)(a) of the Act. It was further submission that section 251(1)(a) of the Act gives only the power to confirm, reduce, enhance or annul the assessment to the Id. CIT(A).

5. On the other hand, the Id. Counsel for the assessee has fairly conceded that the issues raised by the Revenue may be remitted back to the file of the Assessing Officer for fresh adjudication.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. Against various additions made by the Assessing Officer, the assessee carried the matter in appeal before the Id. CIT(A). On perusal of the appellate order, we find that the Id. CIT(A) has remitted back the issues of disallowance made under section 80IC of the Act, disallowance of deduction claimed under section 35(2AB) of the Act and disallowance of provision for gratuity to the file of the Assessing Officer for verification and allow the grounds, which is in contravention of section 251(1)(a) of the Act. The Id. CIT(A) should have called remand report under Rule 46A of the Income Tax Rules and decided the issues on merits. Under the above facts and

circumstances, we remit the matter back to the file of the Assessing Officer to examine and decide the above issues in accordance with law by affording an opportunity of being heard to the assessee.

7. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced on 26th July, 2023 at Chennai.

Sd/-
(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 26.07.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.