

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANJUNATHA.G, ACCOUNTANT MEMBER

आयकर अपीलसं./**ITA Nos.: 3419, 3420 & 3421/CHNY/2019**
निर्धारण वर्ष/Assessment Years: 2017-18, 2016-17 & 2015-16

M/s. Annamalai Industries, vs. **The ACIT,**
D.No.3/38, Sothupakkam Salai, Central Circle 1(2),
Teerthikarlyampattu, Chennai.
Redhills, Chennai – 600 052.

PAN: AAIAA 2228D

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

&

आयकर अपीलसं./**ITA No.: 3430/CHNY/2019**
निर्धारण वर्ष/Assessment Year: 2017-18

Shri A.V. Madhava Rao, vs. **The ACIT,**
No.11, Old No.6, Papathi Ammal Street, Jain Colony, Central Circle 1(2),
Kodambakkam, Chennai.
Chennai – 600 024.

PAN: AAIPA 3033D

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

&

आयकर अपीलसं./**ITA Nos.: 61, 62 & 63/CHNY/2020**
निर्धारण वर्ष/Assessment Years: 2015-16, 2016-17 & 2017-18

M/s. Gayathri Realtors, vs. **The ACIT,**
New No.11, Old No.6, Papathi Ammal Street, Central Circle 1(2),
Jain Colony, Kodambakkam, Chennai.
Chennai - 600 024.

PAN: AAMFG 8662N

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

&

आयकर अपीलसं./ITA No.: 718/CHNY/2020

निर्धारण वर्ष/Assessment Year: 2017-18

**Shri Uma Shankar Gupta
Tallam,**
Flat No.502, Satya Sai Towers,
Nagarampalem, Guntur,
Andhra Pradesh – 522 004.

The ACIT,
vs. Central Circle 1(2),
Chennai.

PAN: ADKPT 9802E

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri T. Banusekar, Advocate
: Shri Nilay Baran Som, CIT

सुनवाई की तारीख/Date of Hearing

: 21.12.2023

घोषणा की तारीख/Date of Pronouncement

: 21.12.2023

आदेश /ORDER**PER MAHAVIR SINGH, VICE PRESIDENT:**

These appeals by the assesseees are arising out of different orders of the Commissioner of Income Tax (Appeals)-18, Chennai in ITA Nos.396,395 & 394/18-19, ITA No.394/18-19, ITA Nos.399, 397 & 398/18-19 & ITA No.391/18-19 dated 30.09.2019 & 09.10.2019. The assessment orders were framed by the Assistant Commissioner of Income Tax, Central Circle 1(2), Chennai for the assessment years 2015-16 to 2017-18, u/s.144 r.w.s.153A r.w.s.153C of the Income Tax Act, 1961 (hereinafter the 'Act'), vide orders dated 28.12.2018 & 31.12.2018. Since the issue is common in all these

appeals, they are heard together and are disposed off by this common order.

2. At the outset, it is also noticed that the appeal filed by the assessee in ITA No.718/Chny/2020 is barred by limitation by 91 days. The order of CIT(A) dated 30.09.2019 was received by assessee on 07.03.2020 as per Form 36. The appeal has to be filed on or before 06.05.2020 but was filed only on 05.08.2020. The Id. AR for the assessee stated that the delay was due to Covid-19 pandemic and nationwide lockdown imposed by the Central Government from 25.03.2020. We noted that 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. It is also noticed that the appeal filed by the assessee in ITA No.3430/Chny/2019 is barred by limitation by 9 days. The order of CIT(A) dated 30.09.2019 was received by assessee on 15.10.2019

as per Form 36. The appeal has to be filed on or before 14.12.2019 but was filed only on 23.12.2019. At the time of hearing, the Id.counsel for the assessee explained the reason that the delay is entirely attributable to the arrest of the assessee. To this, the Id.DR has not seriously objected. As the delay is small, just 9 days and the cause seems reasonable, which was not contested by Revenue, we condone the delay and admit the appeal.

4. At the outset the Id.counsel for the assessee stated that preliminary ground in all these eight appeals is that no effective and adequate opportunity of being heard was granted by the CIT(A)/AO and it is in violation of principles of natural justice. The Id.counsel stated that Shri A.Madhava Rao, Shri Polisetty Venkata Srinivasa Rao and Shri Tallam Uma Sankar Gupta were imprisoned by CBI during the hearings before AO and this added to the non-appearance and non-production of documents and explanation. For this, the Id.counsel has submitted the copies of arrest memos, bail orders and retraction statement filed by the Prison Officer. The Id.counsel further submitted that the above three individuals were released on bail on 22.04.2019, however, they were continuously summoned by various agencies and were also under substantial stress and strain as a result of being under arrest for long periods

and hence, they were unable to make proper representation during the hearing before CIT(A). He, therefore submitted that the order of AO as well as the CIT(A) are ex-parte. Since the assessee has not filed any evidence/documents, there was no cross examination. Hence, he requested the Bench to provide one more opportunity to the assessee and remit all these appeals back to the AO for fresh examination.

5. When this was pointed out to Id.CIT-DR, he objected remitting of appeals back to AO but could not controvert the above fact situation.

6. After hearing rival contentions and going through the entirety of facts, we deem it fit to remit the issues back to the Assessing Officer for a fresh examination. The assessee shall place all the materials in its support before the AO and comply to the AO's requirements as per law. The AO is free to conduct appropriate enquiry as deemed fit without any inference of the observation of the CIT(A) but he shall furnish adequate opportunity to the assessee of being heard, on the material etc., to be used against it and decide the matter in accordance with law. Accordingly, the

orders of the CIT(A) and of that of the AO are set aside and the issue is remitted back to the file of the AO for fresh adjudication.

7. In the result, the appeals filed by the assesseees are allowed for statistical purposes.

Order pronounced in the open court on 21st December, 2023 at Chennai.

Sd/-

(मंजुनाथ. जी)
(MANJUNATHA.G)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 21st December, 2023

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त /CIT

4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF.

Sd/-

(महावीर सिंह)
(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT