

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.1460 & 1461/Chny/2023
निर्धारण वर्ष/Assessment Year: 2012-13

M/s.East Coast Consultants- (India) Ltd., HIG 35/G-3, Thiruvallure Nagar, 3 rd Avenue, Sea Shore Apartments, Thiruvanmiyur, Chennai-600 041.	v.	The Dy. Commissioner of – Income Tax, Central Circle-2(1), Chennai.
[PAN: AAACF 7973 L]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri P.M.Kathir, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Shri D. Hema Bhupal, JCIT
सुनवाईकीतारीख/Date of Hearing	:	01.05.2024
घोषणाकीतारीख /Date of Pronouncement	:	10.05.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

These two appeals preferred by the assessee company are against the order of the Learned Commissioner of Income Tax (Appeals)-18 (hereinafter 'Ld.CIT(A)'), Chennai, dated 19.10.2023 & 30.10.2023 for the Assessment Year (hereinafter 'AY') 2012-13, wherein, the Ld.CIT(A) confirmed the action of the AO levying penalty u/s.271A & 271B of the Income Tax Act, 1961 (hereinafter 'the Act').



**ITA Nos.1460 & 1461/Chny/2023 for AY 2012-13
M/s.East Coast Consultants (India) Ltd.**

:: 2 ::

2. At the outset, the Ld.AR of the assessee pointed out that the Ld.CIT(A) has erred in confirming the penalty levied u/s.271A of the Act, for not maintaining the books of accounts and penalty was also levied u/s.271B of the Act, for failure to audit the accounts u/s.44AB of the Act. According to the Ld.AR, the Ld.CIT(A) has passed *ex parte* orders in both the cases without hearing the assessee. Further, according to the Ld.AR the quantum appeal for AY 2012-13 is still pending before the Ld.CIT(A) and he has called for Remand Report from the AO; and therefore, according to the Ld.AR, the Ld.CIT(A) ought not to have decided the *ibid* penalty appeals without passing the order in quantum assessment, because, the result/out-come of the quantum assessment would have its effect on these penalty appeals and therefore, he pleaded that the impugned *ex-parte* orders may be set aside back to the file of the Ld.CIT(A) with direction to be disposed off along with the quantum assessment or after its verdict.

3. The Ld.DR supported the action of the Ld.CIT(A) and does not want to us to give another innings for the assessee.

4. We have heard both the parties and perused the materials available on record. We note that both the impugned orders passed by the Ld.CIT(A) are *ex parte qua* assessee whereby the Ld.CIT(A) has confirmed the penalty levied by the AO u/s.271A & 271B of the Act for AY



**ITA Nos.1460 & 1461/Chny/2023 for AY 2012-13
M/s.East Coast Consultants (India) Ltd.**

:: 3 ::

2012-13. The only grievance of the assessee is that since the quantum assessment for the relevant assessment year is pending before the Ld.CIT(A), these penalty appeals may also be adjudicated after the verdict is given in the quantum assessment for AY 2012-13 or along with that. Be that as it may, since, the assessee has not been heard by the Ld.CIT(A) while confirming the penalty levied u/s.271A & B of the Act, there is a *per se* violation of natural justice and therefore, we are inclined to set aside the impugned orders of the Ld.CIT(A) and restore these appeals back to the file of the Ld.CIT(A) with a direction to adjudicate these two appeals along with quantum assessment for AY 2012-13 or thereafter. And the Ld.CIT(A) to give opportunity of hearing to assessee before disposing off the appeals in accordance with law.

5. In the result, appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on the 10th day of May, 2024, in Chennai.

Sd/-

(एस. आर. रघुनाथा)

(S.R.RAGHUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 10th May, 2024.

TLN, Sr.PS

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**



**ITA Nos.1460 & 1461/Chny/2023 for AY 2012-13
M/s.East Coast Consultants (India) Ltd.**

:: 4 ::

आदेश की प्रतिलिपि अग्रेषित / Copy to:

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