

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'D' BENCH, CHENNAI
श्री एसएस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष ।
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri Jagadish, Accountant Member

आयकर अपील सं./I.T.A. No.1813, 1814, 1815, 1816, 1817, 1818, 1819, 1820 &
1821/Chny/2024

निर्धारण वर्ष/Assessment Years: 2008-09[26Q-Q4], 2009-10 [26Q-Q4],
2012-13 [26Q-Q4], 2013-14 [26Q-Q1, 26Q-Q2, 26Q-Q3 & 26Q-Q4] &
2014-15[26Q-Q1 & 26Q-Q2]

Mehta Havens Limited,
853, New No. 250/21, Ground Floor,
Poonamallee High Road, Kilpauk,
Chennai 600 010.

Vs. The Income Tax Officer,
TDS Ward 2(3),
Chennai.

[PAN: AACCM8661J]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri G. Tarun, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri Vinod, JCIT
सुनवाई की तारीख/ Date of hearing : 22.08.2024
घोषणा की तारीख /Date of Pronouncement : 23.08.2024

आदेश / O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

These nine appeals filed by the assessee are directed against separate common order all dated 20.05.2024 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi for the assessment years 2008-09 [26Q-Q4],

2009-10 [26Q-Q4], 2012-13 [26Q-Q4], 2013-14 [26Q-Q1, 26Q-Q2, 26Q-Q3 & 26Q-Q4] and 2014-15[26Q-Q1 & 26Q-Q2].

2. Since the issues raised in these appeals are similar basing on the same identical facts, with the consent of both the parties, we proceed to hear all the appeals together and pass common order for the sake of convenience.

3. In all these appeals, the assessee raised 11 grounds of appeal amongst which the only issue emanates for our consideration is as to whether the Id. CIT(A) justified in confirming the quantification of short payment of TDS and interest exparte of the assessee.

4. At the outset, the Id. AR Shri G. Tarun, Advocate brought to our notice that the assessee could not file details as contained in Form 26A before the Id. CIT(A), NFAC and the assessee is now collected all details of Form 26A from various parties. The Id. AR prayed that one more opportunity may be afforded to the assessee in remanding the matter to the file of the Assessing Officer to consider the fresh evidence consisting of Form 26A in the interest of justice. The Id. AR placed on record along with petition under Rule 29 of the ITAT Rules,

1963, the details of Form 26A for all the quarters concerning the relevant assessment years from page 3 to 20 of the paper book.

5. The Id. DR Shri Vinod, JCIT vehemently opposed in remanding the matter to the file of the Assessing Officer as the assessee could not avail many opportunities given by the Id. CIT(A) in the first appellate proceedings. He argued that the matter should be remanded to the file of the Id. CIT(A) instead of the Assessing Officer, for that he brought to our notice the 1st proviso to section 201 of the Income Tax Act, 1961 [“Act” in short] and argued that the proviso was inserted by Finance Act, 2012 w.e.f. 01.07.2012 is applicable only from assessment year 2013-14, but, not prior date thereto.

6. In reply, the Id. AR submits that many High Courts held the said proviso is retrospective and the decisions are placed on record.

7. Considering the facts and circumstances of the cases for AY 2009-10 & 2012-13 and in view of the decision of the Hon’ble High Court of Delhi in the case of CIT v. Ansal Land Mark Township (P.) Ltd. [2015] 61 taxmann.com 45 (Delhi) along with other appeals for AYs 2013-14 & 2014-15, we deem it proper the remand the matter to the file of the Assessing Officer for his consideration in terms of the fresh

evidence filed before us by way of paper book containing the details of various parties in Form 26A and pass order in accordance with law. Thus, the order of the Id. CIT(A) is set aside for all the assessment years under appeal and the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced on 23rd August, 2024 at Chennai.

Sd/-
(JAGADISH)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 23.08.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.