

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

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकरअपील सं./ ITA No.506/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-2018)

Boopathi Mouliswaran,
758, Dr. Radhakrishnan Road,
Tatabad,
Coimbatore 641 012.

Vs. The Assistant Commissioner of
Income,
Non Corporate Circle 2,
Coimbatore.

[PAN: AHRPM 2004Q]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri Shrenik Chardia, C.A.,
: Ms Kavitha, IRS, Addl. CIT.

सुनवाई की तारीख/Date of Hearing

: 28.08.2024

घोषणा की तारीख /Date of Pronouncement

: 28.08.2024

आदेश / O R D E R

PER MANU KUMAR GIRI (Judicial Member)

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in order No.ITBA/NFAC/S/250/2023-24/1056128763(1) dated 15.09.2023. The assessment was framed by the Assistant Commissioner of Income, Non Corporate Circle 2,Coimbatore for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act'), vide order dated 30.12.2019.

2. The assessee has raised the following grounds of appeal:-

"1. The order of the Learned Assessing officer, is opposed to law and unsustainable in the facts and the circumstances of the case.

2. The Learned Assessing officer has exceeded his jurisdiction in finalising a case of Scrutiny beyond the Scope of CBDT Circular and without following due process of law and therefore be held as bad in law.

3. The Learned Assessing officer has failed to appreciate that the evidences given in the form of Audited Statements for the year ended 31.03.2019 and copy of the return filed to show that the difference in the opening balance of Creditors and Debtors were adjusted and the Net effect of Debit balance is written off during A.Y 2019-2020.

4. For these and other additional grounds of appeal that may be adduced at the time Of hearing, the order of the CIT(A) is opposed to law and unsustainable in the facts and circumstances of the case".

3. At the outset, it is noticed that the appeal filed by the assessee is barred by limitation by 104 days. The order of CIT(A) dated 15.09.2023 was received by the assessee on 15.09.2023 itself as per Form 36. The appeal has to be filed on or before 14.11.2023 but was filed only on 26.02.2024. The assessee has filed affidavit along with condonation petition stating the reason that he was affected with Chicken Pox and recovered only in the month of February, 2024 and filed the appeal immediately. When these facts were confronted to Id.Addl.CIT-DR, she objected for condoning the delay. We find the cause as reasonable and hence, condone the delay and admit the appeal for adjudication.

4. Brief facts of the case are as under:-

The assessee is an individual and the proprietor of Sri Balaji Traders filed his return of income for the assessment year 2017-2018 on 24.03.2017 declaring a total

income of Rs.14,46,700/-. The case of the assessee was selected for Scrutiny under CASS for the following reasons as mentioned in the Assessment order.

i. large cash deposit during demonetization period

ii. Abdominal increase in sales with decrease in profitability as compared to previous year

The assessee offered the explanation with evidence in respect of both the items and the same were uploaded. The Id.AO noted the following difference with regard to Sundry Creditors and the same is illustrated hereunder:-

Creditor's name	Closing balance as per Appellant's books of accounts	Closing balance as per Party's book	Difference
Alstone	825745	813271	12,528
HIL	743255	639942	1,03,313
Ramco	1584961	1144647	4,40,315
Sheet King	916500	Closed business	9,16,500
Total			14,72,956

The Ld. Assessing Officer completed the assessment and made the following addition of Rs.53,42,465/-.

<i>Sl.No</i>	<i>Particulars</i>	<i>Rs.</i>
<i>i</i>	<i>Difference in interest receipts</i>	<i>24,790</i>
<i>ii</i>	<i>Disallowance under repairs and maintenance</i>	<i>2,70,719</i>
<i>iii</i>	<i>Difference in sundry creditors A/c on confirmation of balance</i>	<i>14,72,956</i>
<i>iv</i>	<i>Deposit on SBN over above the closing balance as on 08.11.2017</i>	<i>35,74,000</i>
	<i>Total</i>	<i>53,42,465</i>

Aggrieved, by the same assessee preferred an appeal before the Id. CIT(A).

5. The Id. CIT(A) in its order at para 6.4 held as under:-

'6.4 The appellant in its ground of appeal no 4 to 7 assailed the AO in adding the difference in the confirmation of the Sundry Creditors without appreciating the submissions, the VAT returns and adding Rs. 1472956/- as sundry creditor written off. The AO in the assessment order noted that the assessee in his submission wherein it was seen that these. were written off in 2018-19, and in giving effect the assessee has further debited to the P& L Account which as per AO was not proper and accordingly, he added Rs. 1472956/- The appellant in its submissions stated that confirmation of balances was obtained to reconcile the Trade creditors balance and the difference in Debit/Credit balances over a period of time were written off in the books. There was a debit balance of Rs.22,46,325 to be adjusted against the Credit balance of Rs.8.74,678, which was comes to Rs. 1371647/- was adjusted during the year. Further the addition on account of Ramco and Steel King amounting to Rs. 13,56,815/- is unwarranted as a part amount amounting to Rs.5,84,000 has already paid and the balance is subsequently written off in the A.Y: 2019-20. The submission is perused and is not found to be convincing hence the difference of Rs. 1371647/- is sustained. The ground of appeal is dismissed''.

Aggrieved, now the assessee is in further appeal before us.

6. At the outset, the Id. Authorized Representative submitted a petition under Rule 29 of the Income Tax (Appellate Tribunal) Rules, 1963 for admission of additional evidence with regard to Sundry Creditors and contended as under:-

"7. However, the Petitioner was unable to file the relevant details/documents during the course of assessment as the Petitioner could not obtain the Bank Statements with the stipulated period of time. Hence, the Petitioner now seeks Your Authority's permission to submit the following documents in line with the provisions of clause (c) of sub-section (1) of Rule 46A:

Copy of the relevant extract of the bank statement held with City Union Bank bearing Account No.053120000127661 for the period 01.04.2017 to 31.03.2018 of the appellant. (Enclosed in Paperbook at page 27 to 31)

Copy of the relevant extract of the bank statement held with Indian Overseas Bank bearing Account No.352802000000117 for the period 01.04.2017 to 31.03.2018 of the appellant. (Enclosed in Paperbook at page 32 to 37)

Copy of the relevant extract of the bank statement with Indian Overseas Bank bearing Account No.352802000000117 for the period 01.04.2018 to 31.03.2019 of the appellant. (Enclosed in Paperbook at page 38 to 39)

Copy of the ledger account for M/s Ramco Industries Limited in the books of the appellant for the period 1.04.2018 to 31.03.2019. (Enclosed in Paperbook at page 40)”.

7. Per contra, Id. Addl. CIT –Departmental Representative opposed the petition for admission of additional evidence filed under Rule 29 of the Income Tax (Appellate Tribunal) Rules 1963 on the addition of Sundry Creditors.

8. We have heard the rival submissions and perused the record of the lower authorities and petition for admission of additional evidence under Rule 29 of the Income Tax (Appellate Tribunal) Rules 1963. We find that the additional evidence filed goes root to the matter to decide controversy hence we admit the petition u/r.29 of the Income Tax (Appellate Tribunal) Rules 1963. Since we have admitted the additional evidence, therefore we remand back this issue to the file of the Id. Ld. Assessing Officer to verify the additional evidence and contentions of the assessee narrated in para 5 above. Needless to say that the Id. Ld. Assessing Officer will proceed with verification after affording the assessee an adequate opportunity of heard. The Id. Ld. Assessing Officer will recomputed the income thereafter.

9. In the result, the appeal filed by the assessee in ITA No.506/CHNY/2024 for

assessment year 2017-2018 is allowed for statistical purpose.

Order pronounced in the open court on 28th day of August, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

**लेखा सदस्य / ACCOUNTANT
MEMBER**

चेन्नई Chennai:

दिनांक Dated : 28-08-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

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

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER