

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

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

1. आयकर अपील सं. ITA No.1563/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2018-19)

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| Income Tax Officer Corporate Ward-2(3) Chennai. | बनम/ Vs. | M/s.Greta Energy Limited Old No.22, New No.34, Balaji Nagar 1 st Street, Royapettah, Chennai-600 014. |
| स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AADCG-3417-D | | |
| (पीलार्थी/ Appellant) | : | (प्रत्यर्थी / Respondent) |

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2. आयकर अपील सं./ ITA No.1606/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2018-19)

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| M/s.Greta Energy Limited Old No.22, New No.34, Balaji Nagar 1 st Street, Royapettah, Chennai-600 014. | बनम/ Vs. | Income Tax Officer Corporate Ward-2(3) Chennai. |
| स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AADCG-3417-D | | |
| (पीलार्थी/ Appellant) | : | (प्रत्यर्थी / Respondent) |

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| अपीलार्थी की ओरसे/ Revenue by | : | Shri Ashwin D Gowda (Addl.CIT)-Ld. Sr. DR |
| प्रत्यर्थी की ओरसे/ Assessee by | : | Shri Yeshwanth Kumar (CA)-Ld.AR |

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| सुनवाई की तारीख/ Date of Hearing | : | 22-10-2024 |
| घोषणा की तारीख / Date of Pronouncement | : | 22-10-2024 |

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid cross-appeals arises out of an order passed by Learned Commissioner of Income Tax (Appeals), National Faceless Appeal

Centre (NFAC), Delhi [CIT(A)] on 30-03-2024 in the matter of an assessment framed by Ld. AO u/s.147 r.w.s 144B of the Act on 13-03-2023. The sole issue that arises for our consideration is addition made by Ld. AO on account of alleged bogus purchases. The Ld. AR has filed an application under Rule 29 of The Appellate Tribunal Rules, 1963 and prayed for admission of additional evidences which inter-alia, include MVAT Form 231 of the supplier. Having heard rival submissions, the cross-appeals are disposed-off as under. The assessee being resident corporate assessee is stated to be engaged in power generation and distribution.

2. From assessment order, it emerges that originally the return of income was scrutinized u/s 143(3). However, the case was reopened on the allegation that the assessee made bogus purchases of Rs.92.43 Lacs from an entity M/s Shree Om Sai Industries Pvt. Ltd. Though various notices were issued to the assessee during assessment proceedings as is evident from para-2 of the assessment order, the assessee failed to furnish any response. The verification unit (VU) issued notice u/s 133(6) and field inspector reported that the said entity did not exist at the given address. The said entity had left the premises more than 8 years ago. The Ld. AO held that the transaction with non-existent entity was not to be considered as genuine and therefore, the amount of Rs.92.43 Lacs was added to the income of the assessee u/s 69C.

3. The Ld. CIT(A), considering the submissions of the assessee, directed Ld. AO to restrict the addition to the extent of Gross Profit percentage shown by the assessee. The aforesaid income would not be statutory addition as referred to by CBDT in its Circular No.36 of 2017 and therefore, the same would not constitute income from business and

thus not eligible for deduction u/s 80-IA. The said adjudication has led to cross-appeals before us.

4. From the facts, it is clear that the assessee has made purchases from the said supplier but failed to substantiate the transaction to the satisfaction of Ld. AO. The field enquiries have revealed that the said supplier has left the premises at around 8 years whereas the purchases have been made by the assessee subsequently. The assessee, in our opinion, has failed to discharge its onus of substantiating the impugned transaction. No effective representation has been made by the assessee before Ld. AO. However, considering the fact that the assessee has now furnished additional evidences which would have material bearing on the claim of the assessee, we set aside the orders of lower authorities and restore the impugned issue back to the file of Ld. AO for de novo adjudication, inter-alia, by considering the additional evidences as furnished by the assessee before us. The issue of deduction u/s 80-IA may also be re-adjudicated, if required. The assessee is directed to substantiate its case.

5. The cross-appeals stand allowed for statistical purposes in terms of our above order.

Order pronounced on 22nd October, 2024.

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| Sd/- (MANU KUMAR GIRI) न्यायिक सदस्य / JUDICIAL MEMBER | Sd/- (MANOJ KUMAR AGGARWAL) लेखक सदस्य / ACCOUNTANT MEMBER |
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चेन्नई Chennai; दिनांक Dated : 22-10-2024
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आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT Chennai.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF