

आयकर अपीलीय अधिकरण “डी” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, CHENNAI

माननीय श्री मनोज कुमार अग्रवाल, लेखक 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

1. आयकर अपील सं. ITA No.666/Chny/2020
(निर्धारण वर्ष / Assessment Year: 2006-07)

&

2. Stay Application No.36/Chny/2024
(In ITA No.666/Chny/2020)
(निर्धारण वर्ष / Assessment Year: 2006-07)

M/s. Akshay Mercantile Pvt. Ltd. E-5, Moogambika Complex, 4, Lady Desika Road, Mylapore, Chennai-600 004.	बनाम / Vs.	DCIT Central Circle-II(1), Chennai.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AAACA-6248-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकी ओरसे/ Assessee by	:	Shri K. Ravi, (Advocate)- Ld.AR
प्रत्यर्थीकी ओरसे/ Revenue by	:	Shri A. Sasikumar (CIT)-Ld. Sr. DR

सुनवाईकी तारीख/ Date of Hearing	:	14-11-2024
घोषणाकी तारीख / Date of Pronouncement	:	20-11-2024

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1.1 Aforesaid appeal by assessee for Assessment Year (AY) 2006-07 arises out of order of learned Commissioner of Income Tax (Appeals)-1, Chennai [CIT(A)] dated 17-01-2020 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.144 of the Act on 12-12-2008. The appeal of assessee is accompanied by stay application wherein the

assessee is seeking stay of recovery of outstanding demand by the revenue. The registry has noted a delay of 99 days in the appeal, the condonation of which has been sought by Ld. AR on the strength of affidavit of Managing Director of the assessee. Considering the fact that the period available for preferring appeal before Tribunal falls within adverse period arising out of Covid-19 Pandemic, we condone the delay and proceed with disposal of the appeal on merits.

1.2 The grounds taken by the assessee are as under:

1. The appellate order dated 17-01-2020 passed by CIT(A)-1, Chennai is quite arbitrary, illegal and contrary to the facts of the case of your appellant.
2. The Learned CIT(A) failed in appreciating that appellant company has opening cash balance of Rs.5,35,628/- against the cash deposit of Rs.3,43,750/- in their bank account.
3. He further ought to have appreciated the reasonable cause for non filing of return, however he has failed to note that return was filed before making the assessments and therefore data furnished therein ought to have been used for verification of true state of affairs.
4. The Learned CIT(A) further erred in confirming the interest estimated by the AO against the actual interest returned by the appellant company.
5. The Learned CIT(A) further erred in confirming the rental income estimated by the AO amounting to Rs.15,00,000/- as against the returned income of Rs.18,72,013.50 on this account.
6. The Learned CIT(A) ought to have appreciated that Block Assessment has yet not reached the finality and appellant company's appeal is pending before ITAT as on date, moreover he has failed to take in to consideration the order passed by CIT(A)-18 on 27-06-2019 this regard in ITA No.423/2015-16.

1.3 The Ld. AR advanced arguments supporting the case of the assessee whereas Ld. CIT-DR has supported the findings given by lower authorities. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

Proceedings before lower authorities

2.1 The assessment has been framed on best judgment basis for want of details for the assessee. It transpired that the assessee deposited cash of Rs.3.43 Lacs in the bank account. In the absence of any satisfactory response forthcoming from the assessee to establish the

source thereof, the same was added as unexplained cash credit. The assessee advanced loans of Rs.1.62 Crores during FY 2003-04 and earned interest. In this year, the assessee did not provide any details. The Ld. AO estimated interest income @24% on advances of Rs.2 Crores and made addition of Rs.48 Lacs. The rental income was similarly estimated at Rs.15 Lacs. In block assessment order dated 23-12-2005, an amount of Rs.279.80 Lacs was treated as undisclosed investment. The Ld. AO estimated interest on the same @24% and made addition of Rs.67.15 Lacs. Another similar addition of advances was made for Rs.267.70 Lacs. The Ld. AO estimated interest on the same @24% and made addition of Rs.64.24 Lacs.

2.2 During appellate proceedings, the submissions of the assessee were subjected to remand proceedings and Ld. AO furnished remand report on 09-07-2014. It transpired that the assessee had filed return of income on 24-02-2010. However, the same was held to be invalid return and therefore, not considered by Ld. AO.

2.3 Considering the remand report, Ld. CIT(A) upheld addition of cash deposit, addition of estimated interest income of Rs.48 Lacs and estimated rental income of Rs.15 Lacs. The other two additions were sustained to the extent of Rs.10.75 Lacs and Rs.11.50 Lacs by adopting interest rate of 24% considering the fresh assessment framed by Ld. AO pursuant to the directions of the Tribunal. Aggrieved, the assessee is in further appeal before us.

Our findings and Adjudication

3. It emerges that the assessee has furnished return of income which was treated as invalid return. However, in our opinion, the data contained therein could be used to compute the income of the assessee.

It is quite apparent that all the additions are on estimated basis and not supported by actual facts / figures. It also emerges that the quantum in block assessment has undergone substantial change in second round of litigation due to appellate proceedings. Therefore, we set aside the orders of lower authorities and restore the assessment back to the file of Ld. AO with a direction to the assessee to substantiate its income. The return of income as filed by the assessee as well as the outcome of second round of litigation shall duly be considered by Ld. AO. No other ground has been urged in the appeal.

4. The appeal stands allowed for statistical purposes. The connected stay application has been rendered infructuous and accordingly, dismissed.

Order pronounced on 20th November, 2024

Sd/- (MANU KUMAR GIRI) न्यायिक सदस्य / JUDICIAL MEMBER	Sd/- (MANOJ KUMAR AGGARWAL) लेखक सदस्य / ACCOUNTANT MEMBER
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चेन्नई Chennai; दिनांक Dated : 20-11-2024
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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