

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री एस.एस. 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.2275/Chny/2024
निर्धारण वर्ष/Assessment Year: 2013-14

Amaravati Agro Limited,
2 LE Bois, Abhishekapakkam,
Pondicherry 605 007.

Vs. The Assistant Commissioner of
Income Tax,
Circle 1,
Pondicherry.

[PAN:AAACA4655Q]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri K. Balasubramanian, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri K. Rohan Raj, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 03.12.2024
घोषणा की तारीख /Date of Pronouncement : 19.12.2024

आदेश /O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order dated 09.07.2024 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi for the assessment year 2013-14.

2. At the outset, the Id. AR Shri K. Balasubramanian, Advocate submits that the assessee raised a legal issue of reopening of assessment under section 147 of the Income Tax Act, 1961 ["Act" in

short] after 4 years of conclusion of original assessment under section 143(3) of the Act dated 26.02.2016 when there was no failure on the part of the assessee to disclose fully and truly all facts for investment in capital gains bonds as no new material has come into the possession of the Assessing Officer. He further submits that a notice under section 154/155 of the Act dated 17.10.2017 proposing to rectify the assessment order for AY 2013-14 on the very same claim under section 54EC of the Act has been issued on the assessee and the same having not been dropped, issue of notice under section 148 of the Act dated 24.01.2020 on the very same issue for the same AY is not proper in view of the decision of the Hon'ble High Court of Madras in the case of CIT v. E.I.D. Parry Ltd. [1995] 216 ITR 489]. Further, by referring to the decision of Hon'ble High Court of Madras in the case of Sterilite Industries (India) Ltd. [2012] 18 taxmann.com 351(Mad), the Id. AR vehemently argued that once notice under section 154 of the Act has been issued to rectify the error in the assessment order, for the very same reason, the Assessing Officer has no jurisdiction to issue notice under section 148 of the Act and prayed to quash the assessment order passed under section 147 r.w.s. 144 of the Act dated 20.09.2021.

3. The Id. DR Shri K. Rohan Raj, Addl. CIT submits that the assessee has not challenged the reopening of assessment either before the Assessing Officer or before the Id. CIT(A) and the assessee raised this legal issue of reopening of assessment for the first time before the Tribunal. He submits that no material was placed before the Id. CIT(A) that notice under section 154 of the Act has been issued for the same reasons.

4. After hearing both the parties, we note that the assessee filed its return of income for AY 2013-14 on 26.09.2013 declaring total income at ₹.1,85,69,740/- and the original assessment was completed on 26.02.2016 under section 143(3) of the Act determining total income at ₹.2,17,81,919/-. We note that on verification of assessment records, the Assessing Officer noted that the assessee claimed exemption of ₹.1,00,00,000/- under section 54EC of the Act in the return of income and the same was allowed in the assessment order. It is clear from para 1 of the assessment order that the Assessing Officer issued notice under section 148 of the Act dated 24.01.2020 to disallow the excess deduction of ₹.50,00,000/- allowed to the assessee under section 54EC of the Act. Thus, it is clear from the assessment order that the Assessing Officer reopened the assessment for AY 2013-14

after lapse of 4 years from relevant assessment year without any new material in his possession to do so in terms of 1st proviso to section 147 of the Act. Thus, the proceedings initiated under section 147 of the Act are liable to be quashed.

5. Further, we note that the Assessing Officer issued notice under section 154/155 of the Act dated 17.10.2017 placed at page 4 of the paper book, wherein, the said notice was issued to disallow the excess deduction of ₹.50,00,000/- allowed to the assessee. We are of the opinion that pending conclusion of rectification proceedings under section 154 of the Act, the Assessing Officer has no jurisdiction to issue notice under section 148 of the Act in view of the decision of the Hon'ble High Court of Madras in the case of CIT v. E.I.D. Parry Ltd. (supra). Moreover, in the case of S.M. Overseas Private Limited v. CIT in Civil Appeal Nos. 3612-3613 of 2012 vide order dated 07.12.2022, the Hon'ble Supreme Court held that during the pendency of the proceedings under Section 154 of the Act, it is not permissible on the part of the Revenue to initiate the proceedings under Section 147/148 of the Act pending the proceedings under Section 154 of the Act. Further, the Hon'ble High Court of Madras, in the case of Sterilite Industries (India) Ltd. v. ACIT [2012] 18 taxmann.com 351 (Mad), held that when there is

absolutely no material difference on issues sought to be considered under section 154 proceedings and under section 148 of the Act, the notice issued under section 148 of the Act lacked the very basis for assumption of jurisdiction under section 147 of the Act. Under the above facts and circumstances of the case, we set aside the order of the Id. CIT(A) by holding the reassessment order dated 20.09.2021 is bad under law and allow the grounds raised by the assessee.

6. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 19th December, 2024 at Chennai.

Sd/-
(JAGADISH)
ACCOUNTANT MEMBER

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

Chennai, Dated, 19.12.2024

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.