

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

माननीय श्री एबी टी. वर्की, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI ABY T. VARKEY, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकरअपील सं./ ITA No.2122/Chny/2024
(निर्धारण वर्ष / Assessment Year: 2018-19)

Shri Nagainallur Subramani Lakshmi Narayanan Mahesh #2, Subbu Chetty Street, Park Town, Chennai-600 003.	बनाम/ Vs.	DCIT Non-Corporate Circle-4(1), Chennai.
स्थायी लेखासं./जीआइआरसं./PAN/TAN No. ADVPN-4609-A		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri R. Vijayaraghavan (Advocate) – Ld.AR
प्रत्यर्थीकीओरसे/Respondent by	:	Shri S. Sundar Rajan (JCIT) -Ld. Sr. DR

सुनवाईकीतारीख/Date of Hearing	:	30-12-2024
घोषणाकीतारीख /Date of Pronouncement	:	31-12-2024

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2018-19 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 10-06-2024 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.143(3) r.w.s 143(3A) & 143(3B) of the Act on 17-02-2021. The sole grievance of the assessee is disallowance of contractual payment of Rs.51.30 Lacs for want of sufficient evidences.

2. The Ld. AR advanced arguments supporting the case of the assessee whereas Ld. Sr. DR referred to the adjudication of Ld. CIT(A) in the impugned order. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

Proceedings before lower authorities

3.1 The case was subjected to scrutiny for the reason that there was large payment u/s 194C to persons who had not filed the return of income. It transpired that the assessee made payment of Rs.51.30 Lacs u/s 194C. However, the assessee failed to furnish requisite documents of the payee and accordingly, the amount of Rs.51.30 Lacs was added to the income of the assessee.

3.2 During appellate proceedings, the assessee, inter-alia, submitted that the payment represent capital expenditure and capitalized in the books as building. Due tax was deducted at source. Non furnishing of return by contractor could not be a ground to doubt the genuineness of the expenditure. The Ld. CIT(A) observed that the said payment was made to one Shri N. Munusamy. The assessee was bound to explain the genuineness of the said transaction. The assessee could not adduce the identity of the contractor and the nature of services rendered by him. Regarding the contention that the expenditure was capitalized, Ld. AO was directed to verify the same and disallow depreciation. Aggrieved, the assessee is in further appeal before us.

Our findings and Adjudication

4. In our opinion, deduction of tax at source u/s 194C and payment through banking channel was not sufficient enough to establish the claim of the assessee. The assessee, apparently, has carried out construction activities. The onus is on assessee to adduce evidence to demonstrate

that the actual construction has taken place. In the absence of such evidences, the claim cannot be allowed. The Ld. AR has stated that the cost of building was sourced from housing loan. The payee has acknowledged the receipt of the payment. It has further been stated that the assessee is in a position to demonstrate that actual construction was carried out by the payee. Considering the same, we restore the issue back to the file of Ld. AO with a direction to the assessee to demonstrate that factum of rendition of services.

5. The appeal stand allowed for statistical purposes.

Order pronounced on 31st December, 2024

Sd/-
(ABY T. VARKEY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated :31-12-2024
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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