

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

श्री बी.आर. बास्करन, लेखा सदस्य एवं श्री विकास अवस्थी, न्यायिक सदस्य केसमक्ष

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND
SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 406/Mds/2013

निर्धारण वर्ष /Assessment Year : 2003-04

The Assistant Commissioner of
Income Tax,
Business Circle – I,
Chennai - 600 034.

v.

M/s Milapchand Dadha & Sons
(HUF),
No.12, Poes Road, 4th Street,
Chennai - 600 014.

(अपीलार्थी/Appellant)

PAN : AABHL 0037 P

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri P. Radhakrishnan, JCIT
प्रत्यर्थी की ओर से/Respondent by : Shri D. Anand, Advocate

सुनवाई की तारीख/Date of Hearing : 20.01.2015

घोषणा की तारीख/Date of Pronouncement : 20.01.2015

आदेश / O R D E R

PER B.R. BASKARAN, ACCOUNTANT MEMBER:

The appeal filed by the Revenue is directed against the order dated 27.11.2012, passed by Ld. Commissioner of Income Tax (Appeals)-VI, Chennai and it relates to assessment year 2003-04.

2. We heard the parties and perused the record. For the assessment year under consideration, the assessee did not file return of income either voluntarily or in response to the notice issued by A.O. under Section 142(1) of the Income-tax Act, 1961 (in short 'the Act'). The assessee also did not cooperate with the Assessing Officer. From the bank statement of the assessee maintained with Indian Bank, the A.O. noticed that the assessee has deposited amounts to the tune of ₹ 32.97 lakhs. Since no explanation was forthcoming, the A.O. assessed the same as income of the assessee.

3. In the appellate proceedings, the assessee furnished certain details and hence the Ld. CIT(Appeals) called for a remand report from the Assessing Officer. The materials which were furnished before the Ld. CIT(Appeals) consisted of returns of income filed by the assessee from assessment year 2000-01 onwards. Further, the assessee also placed reliance on the block assessment orders passed in his hands.

4. However, in the remand report, the Assessing Officer has pointed out that the block assessments have been set aside by the Hon'ble ITAT to the file of the Assessing Officer. Further, the A.O. pointed out that the assessee did not furnish all details relating to

assessment year 2000-01. Accordingly, the A.O. appears to have stood by the addition made by her.

5. The Ld CIT(Appeals) however accepted the contention of the assessee that the income disclosed by him for earlier years as well as amount withdrawn from banks were available with the assessee for making the impugned deposit into the bank account. The Ld. CIT(Appeals) also noticed that the assessee has been receiving deposits of money from its associate concerns and individuals and lending the same to its own other associate concerns and individuals. Accordingly, the Ld. CIT(Appeals) took the view that the deposits made into the bank account represented money lending transactions. Accordingly, the Ld. CIT(Appeals) estimated the income of the assessee from money lending transactions ₹ 1,50,000/- net of all expenses. The Revenue is aggrieved by the decision of the Ld. CIT(Appeals).

6. The Ld. D.R. submitted a copy of bank statement pertaining to the assessee and submitted that the assessee has not withdrawn any amount by way of cash and hence, the Ld. CIT(Appeals) was not justified in accepting the contention of the assessee that the assessee has used the money withdrawn on an earlier occasion for making deposits into the bank on a subsequent date. The Ld. D.R.

also submitted that the assessee did not furnish all details before the Assessing Officer either during the course of assessment proceedings or during the course of remand proceedings. Accordingly, the Ld. D.R. contended that Ld. CIT(Appeals) was not justified in estimating the income out of the deposits made by the assessee.

7. On the contrary, the ld. counsel submitted that the assessee had filed returns of income from assessment year 2000-01 onwards, though belatedly, and the assessee was having sufficient funds for explaining the deposits made into a bank. Ld. counsel also submitted that the assessee had received funds from associate concerns and individuals and the assessee used the same for lending money to other associate concerns and individuals. The Ld. counsel further submitted that the block assessments have been set aside to the file of the Assessing Officer by Hon'ble ITAT and those block assessments are having a bearing on the addition made during the year under consideration also. Accordingly, he prayed that the entire matter may be set aside to the file of the Assessing Officer in order to enable the assessee to explain the source of the deposits made into bank account.

8. The Ld. D.R. did not object to the plea put forth by ld. A.R.

9. Having heard the submissions made by both parties, we are of the view that the impugned matter needs a fresh verification at the end of Assessing Officer. It is an undisputed fact that the assessee did not cooperate with the Assessing Officer during the course of assessment proceedings. Now, the Ld. D.R. submitted that the assessee would be in a position to explain the sources of deposits made into the bank account. We have already noticed that the Ld. CIT(Appeals) has, instead of ascertaining the source of deposits proceeded to estimate the income which is not the case of the Assessing Officer. Under this set of facts, we agree with the submission of Ld. counsel that the matter relating to deposits into bank account can be examined. Accordingly, we set aside the order of the Ld. CIT(Appeals) and restore the file to the Assessing Officer with the direction to examine them afresh by duly considering the explanation and information that may be furnished by the assessee and take appropriate decision in accordance with law.

10. In the result, the appeal filed by the Revenue is treated as allowed for statistical purposes.

Order pronounced on the 20th day of January, 2015 at
Chennai.

Sd/- (विकास अवस्थी) (Vikas Awasthy) न्यायिक सदस्य/Judicial Member	sd/- (बी.आर. बास्करन) (B.R. Baskaran) लेखा सदस्य/Accountant Member
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चेन्नई/Chennai,
दिनांक/Dated, the 20th January, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-VI, Chennai
4. आयकर आयुक्त/CIT-IV, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.