

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' (SMC) BENCH : CHENNAI

श्री अब्राहम पी. जॉर्ज, लेखा सदस्य के समक्ष
BEFORE SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No. 3212 & 3213/Mds/2016
निर्धारण वर्ष /Assessment years : 2012-13 & 2013-2014.

Smt. Kanchandevi Challani, **Vs.** The Income Tax Officer,
No.63, NSC Bose Road, Non Corporate Ward 5(1)
Sowcarpet, Chennai.
Chennai 600 079.

[PAN AHBPK 4928K]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Ms. S. Srinirajani, Advocate
प्रत्यर्थी की ओर से /Respondent by : Shri. S. Supriyo Pal, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing : 09-01-2017
घोषणा की तारीख /Date of Pronouncement : 11-01-2017

आदेश / ORDER

These are appeals filed by the assessee directed against orders dated 26.09.2016 of Id. Commissioner of Income Tax (Appeals)-5, Chennai.

2. Facts apropos are that assessee a dealer in silver items and chains had filed return of income for assessment year 2012-2013 disclosing income of ₹8,70,790/- and for assessment year 2013-2014

disclosing income of ₹8,91,350/-. The assessment for assessment year 2012-2013 was completed by the Id. Assessing Officer making an addition for interest of ₹12,01,703/- on a loan which was taken over by a firm. There was an addition of ₹1,05,369/- for difference in opening capital account. Assessee had claimed exemption u/s.54F of the Act on capital gains, on which there was an addition of ₹2,17,828/-. There was an addition of ₹1,76,580/- rejecting a bill issued by M/s. ADJ Jewellery P. Ltd .

3. For assessment year 2013-2014, there was a disallowance of ₹12,56,415/-. This represented interest on loans earlier taken by the assessee. Interest on these loans as per Id. Assessing Officer was to be paid by the firm which had taken over the loan and not assessee.

4. Aggrieved, assessee moved in appeal for both years before Id. Commissioner of Income Tax (Appeals). Assessee had filed written submissions on 29.08.2016. Id. Authorised Representative of assessee filed a letter dated 19.09.2016 in the office of the Id. Commissioner of Income Tax (Appeals) requesting for an adjournment and posting of the cases in the third week of October, 2016. However, Id. Commissioner of Income Tax (Appeals) did not give time sought by the assessee but choose to decide the appeals based on the written

submissions filed on 29.08.2016. As per Id. Commissioner of Income Tax (Appeals) nothing was mentioned in the adjournment letter regarding any requirement to collect any further information from the assessee. He dismissed the appeals of the assessee for both the years.

5. Now before me, Id Authorised Representative strongly assailing the orders of the Id. Commissioner of Income Tax (Appeals) submitted that Id. Authorised Representative of the assessee had sought time before Id. Commissioner of Income Tax (Appeals) for collecting information relating to the case from the assessee for filing further written submissions. As per Id. Authorised Representative deciding the case ex-parte without granting adjournment sought by the assessee resulted in gross injustice and violation of principles of natural justice.

6. Id. Departmental Representative fairly stated that matter could be looked again by the Id. Commissioner of Income Tax (Appeals) after giving an opportunity to the assessee to represent its case.

7. I have considered the rival contentions and perused the orders of the authorities below. It is not disputed by the Revenue that Id. Authorised Representative had filed before Id. Commissioner of Income Tax (Appeals) a letter seeking time upto third week of October, 2016. However, Id. Commissioner of Income Tax (Appeals) chose to go by the written submissions filed by the assessee on 29.08.2016. We find that Id. Authorised Representative of the assessee had appeared before Id. Commissioner of Income Tax (Appeals) on 29.08.2016, when the written submissions were filed. It was mentioned by the Id. Commissioner of Income Tax (Appeals) that date of subsequent hearing was fixed on 19.09.2016 with the consent of Id. Authorised Representative. Be that as it may, once the Id. Authorised Representative of assessee filed a letter on 19.09.2016 seeking time upto third week of October, 2016, I am of the opinion that Id. Commissioner of Income Tax (Appeals) should have fairly given time. I am therefore of the opinion that the appeals having been decided ex-parte require a fresh look by the Id. Commissioner of Income Tax (Appeals) for both years. I set aside the order of the lower of the Id. CIT(A) for both the years and remit the appeals back to his file for consideration afresh, after giving one more opportunity to the

assessee for representing his case.

8. In the result, the appeals of the assessee for both the years are allowed for statistical purposes.

Order pronounced on Wednesday, the 11th day of January, 2017, at Chennai.

Sd/-

(अब्राहम पी. जॉर्ज)

(ABRAHAM P. GEORGE)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai

दिनांक/Dated:11th January, 2017.

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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