

आयकर अपीलीय अधिकरण, ए एस एम सी न्यायपीठ, चेन्नई [शिविर: मदुरै]

IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' SMC BENCH, CHENNAI [**CAMP: MADURAI**]

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य के समक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER

आयकर अपील सं./ITA No.955/Mds/2015

निर्धारण वर्ष / Assessment Year : 2007-08

Shri P.B. Ajit Babu, HUF  
'Aparna', 59, Bharathi Ula Road,  
Race Course, Madurai-625 002.

v.

The Income Tax Officer,  
Non-Corporate Ward 3(1),  
Madurai.

PAN : AAFHA 4393 H

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Sh. T. Banusekar, CA

प्रत्यर्थी की ओर से/Respondent by

: Shri Shiva Srinivas, JCIT

सुनवाई की तारीख/Date of Hearing : 17.02.2017

घोषणा की तारीख/Date of Pronouncement : 17.02.2017

### **आदेश /O R D E R**

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -3, Madurai, dated 27.02.2015 and pertains to assessment year 2007-08.

2. The first ground of appeal is with regard to addition of ₹62,929/- towards rental advance received by the assessee.

3. Sh. T. Banusekar, the Ld. representative for the assessee, submitted that the assessee received rental advance from the tenants. The assessee produced copies of rental agreement before the Assessing Officer. The assessee also claims that confirmation letters were filed. It is not known whether the rental agreement and confirmation letters which are said to be available before the Assessing Officer were considered by both the authorities or not? Moreover, there was no reference about the confirmation letters received from the tenants in their respective orders.

4. On the contrary, Shri Shiva Srinivas, the Ld. Departmental Representative, submitted that the rental agreements were not available before the Assessing Officer, therefore, he may not have any objection to remit the matter to the file of the Assessing Officer.

5. I have considered the rival submissions on either side and perused the relevant material available on record. A perusal of rental agreements show that the assessee has received advances while letting out the property. Therefore, this Tribunal is of the considered opinion that the rental agreement has to be considered by the Assessing Officer. The assessee also claims that confirmation letters are filed. Accordingly, the orders of the lower

authorities are set aside and the addition of ₹62,929/- is remitted back to the file of the Assessing Officer. The Assessing Officer shall reconsider the matter afresh in the light of the rental agreement and the confirmation letters thereafter decide the issue in accordance with law.

6. The next ground of appeal is with regard to addition of ₹1,25,411/- towards unexplained investment in the mutual fund.

7. Sh. T. Banusekar, the Ld. representative for the assessee, submitted that these investments were made in the earlier assessment years right from assessment year 2001-02. The Ld. representative placed on record cheque numbers and dates through which the investments were made. The Ld. representative very fairly submitted that the matter may be remitted back for verification.

8. On the contrary, Shri Shiva Srinivas, the Ld. Departmental Representative, submitted that the investments were made by the assessee in mutual funds. Since the assessee did not produce books of account in this regard, the addition was made by the assessing officer during the year under consideration.

9. I have considered the rival submissions on either side and perused the relevant material available on record. The assessee now produced cheque numbers and date of investments before this Tribunal. Therefore, the investments were made in mutual funds in the earlier assessment years, hence, this Tribunal is of the considered opinion that there cannot be any addition for the year under consideration. However, the matter needs verification by the Assessing Officer. Accordingly, the orders of the lower authorities are set aside and the addition of ₹1,25,411/- is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the issue in the light of the documentary evidence produced by the assessee and thereafter decide the same after giving a reasonable opportunity to the assessee.

10. The next ground of appeal is with regard to addition of ₹4,39,880/-.

11. Sh. T. Banusekar, the Ld. representative for the assessee, submitted that the addition was made by the Assessing Officer on comparing the assessee's books of account with the books of Smt. Priya Ajit. According to the Ld. representative, this is only opening balance, therefore, there cannot be further addition for the year

under consideration. However, the Ld. representative submitted that the matter may be remitted back to the file of the Assessing Officer for verification.

12. On the contrary, Shri Shiva Srinivas, the Ld. Departmental Representative, submitted that the addition was made after comparing the books of the assessee with that of Smt. Priya Ajit. The difference between the two was added and addition was made in the hands of the assessee.

13. I have considered the rival submissions on either side and perused the relevant material available on record. It appears what was added by the Assessing Officer is difference between the opening balance and the closing balance. Therefore, the matter needs to be remitted back to the file of the Assessing Officer. Accordingly, the orders of the lower authorities are set aside and the addition of ₹4,39,880/- is remitted back to the file of the Assessing Officer for verification

14. The next ground of appeal is with regard to bogus loan creditors.

15. Sh. T. Banusekar, the Ld. representative for the assessee, submitted that the assessee has furnished confirmation letters before the lower authorities. However, the same were not considered. Therefore, the matter may be remitted back to the file of the Assessing Officer for reconsideration.

16. On the contrary, Shri Shiva Srinivas, the Ld. Departmental Representative, submitted that the very same argument was made before the CIT(Appeals). The CIT(Appeals) after considering the evidence produced by the assessee, confirmed the addition made by the Assessing Officer.

17. I have considered the rival submissions on either side and perused the relevant material available on record. It is not in dispute that the assessee produced confirmation letters from respective loan creditors. When the assessee filed confirmation letters, it is obligatory on the part the Assessing Officer to examine the same. Unfortunately, both the authorities below have not examined the same. Therefore, the matter needs reconsideration. Accordingly, the orders of the lower authorities are set aside and the addition towards bogus loan creditors is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the

matter in the light of the confirmations filed by the assessee and thereafter decide the issue in accordance with law after giving a reasonable opportunity to the assessee.

18. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 17th February, 2017  
at Madurai.

sd/-  
(एन.आर.एस. गणेशन)  
(N.R.S. Ganesan)  
न्यायिक सदस्य/Judicial Member

मदुरै/Madurai,  
दिनांक/Dated, the 17<sup>th</sup> February, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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