

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' (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. 2212/Mds/2016  
निर्धारण वर्ष /Assessment year : 2008-2009

Shri. T.V. Krishna Rao,  
No.1/458, Bazaar Street,  
Kadambathur,  
Tiruvallur,  
Chennai 600 109.

**Vs.** The Assistant Commissioner  
of Income Tax,  
Business Range VIII,  
Chennai.

[PAN AHHPK 6752H]

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by : Shri. A.S. Sriraman, Advocate

प्रत्यर्थी की ओर से /Respondent by : Shri. R. Clement Ramesh  
Kumar, JCIT.

सुनवाई की तारीख/Date of Hearing : 02-03-2017

घोषणा की तारीख /Date of : 07-03-2017

Pronouncement

**आदेश / ORDER**

This appeal filed by the assessee is directed against an order dated 23.02.2016 of Id. Commissioner of Income Tax (Appeals)-13, Chennai.

**2.** Appeal filed by the assessee is delayed by fifty days. Condonation petition has been filed. Reason shown for the delay seems to be justified. Ld. Departmental Representative did not raise any serious objection. Delay is condoned. Appeal is admitted. Grievance of the assessee is that addition of ₹.27,89,000/- considered as unexplained cash deposits in ING Vysya Bank was confirmed by the Id. Commissioner of Income Tax (Appeals).

**3.** Facts apropos are that assessee had filed a return of income for the impugned assessment year disclosing an income of ₹.12,75,832/-. During the course of assessment proceedings, it was noted by the Id. Assessing Officer that assessee had deposits aggregating ₹.27,89,000/- with ING Vysya Bank, Anna Nagar Branch. Explanation of the assessee was sought. It was explained by the assessee that the money deposited belonged to a sister concern named M/s. AravindhTraders and it was returned to them in the month of April, 2008 through bank transfer from very same account to the account of M/s. Aravindh Traders in Central Bank of India. However, this was not accepted and an addition was made.

**4.** Aggrieved, assessee moved in appeal before Id. Commissioner of Income Tax (Appeals) without success.

5. Assessee thereafter moved further appeal before this Tribunal. The Tribunal held as under at paragraphs 3 to 5 of its order in ITA No.773/Mds/2012, dated 06.09.2012.

*'3. The DR had no objection to the submission made by the assessee that the matter should be remanded back to the file of the Assessing Officer for verification of the entire facts of the issue.*

*4. Considering the rival submissions and perusing the materials available on record, we find that addition of ₹27,89,000/- was made by the Assessing Officer for deposits in cash made in the bank account of the assessee with ING Vysya Bank on 31.3.2008 as unexplained deposits. The assessee explained that the said amount belonged to the sister concern M/s Aravindh Traders and that the said amount was returned to them in the month of April 2008 through bank transfer from ING Vysya Bank to the account of M/s Aravindh Traders with Central Bank of India. We observe that the CIT(A) has confirmed the action of the Assessing Officer on the ground that in the Balance Sheet of M/s Aravindh Traders the assessee's name was not appearing as sundry debtor. No further investigation was carried out by the CIT(A). We also find that the Assessing Officer in para 7 of his order has stated that the assessee explained the source of deposits in the bank account as receipts from debtors and as the assessee could not substantiate its claim with documentary evidence, the Assessing Officer made addition to the income of the assessee.*

*5. As both the parties before us have agreed that the matter should be restored back to the file of the Assessing Officer for proper verification of all relevant facts and then adjudicate the issue afresh, we set aside the orders of the lower authorities and restore the matter to the Assessing Officer to re-adjudicate the issue afresh after allowing reasonable and proper opportunity of hearing to the assessee. Thus, the grounds of appeal of the assessee are allowed for statistical purposes".*

6. Accordingly, the matter was once again taken by the Id. Assessing Officer. Despite various notices issued to the assessee, it

seems nobody entered appearance. As per Id. Assessing Officer no evidence was forthcoming from the assessee. Hence he completed the assessment making the very same addition as done in the original assessment.

**7.** Aggrieved, assessee once again moved in appeal before Id. Commissioner of Income Tax (Appeals). Contention of the assessee was that account of the sister concern namely M/s. Aravindh Traders was already furnished before Id. Assessing Officer in the first round of hearing. Further as per assessee, cash deposits had come from the sale proceeds of the said sister concern. Assessee also requested Id. Commissioner of Income Tax (Appeals) to obtain a remand report from the Id. Assessing Officer and undertook to co-operate with the Id. Assessing Officer. Id. Commissioner of Income Tax (Appeals) was of the opinion that except for making same arguments assessee did not produce any evidence before him or the Id. Assessing Officer and he confirmed the addition.

**8.** Now before me, Id Authorised Representative submitted that all relevant materials were available with the Id. Assessing Officer. According to him, assessee was a partner in M/s. Aravindh Traders from which it had received the money.

**9.** Per contra, Id. Departmental Representative strongly supported the orders of the authorities below.

**10.** I have heard the rival submissions and perused the material on record. In the first round of proceedings, Id. Commissioner of Income Tax (Appeals) had confirmed the addition after verifying Balance Sheet of M/s. Aravindh Traders which did not have assessee's name in it. If the claim of the assessee was that the money was temporarily borrowed from M/s. Aravindh Traders in cash and given back to them through banking channel, it could have very well produced the relevant ledger/day book of M/s. Aravindh Traders to prove its case. Especially so since assessee was a partner in the said firm. Despite number of opportunities given, assessee never did so. The only documentary evidence filed was the audited Balance sheet of M/s. Aravindh Traders. When a cash deposit was made by the assessee in his bank account, the onus was on the assessee to show the source of such deposits. Assessee cannot skirt this duty by resorting to vague and irrelevant pleas. In my opinion, assessee was not able to discharge the onus despite large number of opportunities given by the lower authorities. I do not find any reason to interfere with the orders

of the lower authorities.

**11.** In the result, the appeal of the assessee stands dismissed.

Order pronounced on Tuesday, the 7th day of March , 2017, at Chennai.

Sd/-

(अब्राहम पी. जॉर्ज)

**(ABRAHAM P. GEORGE)**

**लेखा सदस्य/ACCOUNTANT MEMBER**

चेन्नई/Chennai

दिनांक/Dated: 7th March, 2017

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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