

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री डि.एस. सुन्दर सिंह, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2530/Mds/2014

निर्धारण वर्ष / Assessment Year : 2005-06

The Deputy Commissioner of
Income Tax,
Company Circle I(1),
Chennai - 600 034.

v. M/s Arjun Chemicals Pvt. Ltd.,
Park View, II floor, New No.94,
Old No.85, G.N. Chetty Road,
T. Nagar, Chennai - 600 017.

(अपीलार्थी/Appellant)

PAN : AAACA 5195 M

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri Shiva Srinivas, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri Mohammed Shaffiq, Advocate

सुनवाई की तारीख/Date of Hearing : 28.07.2016

घोषणा की तारीख/Date of Pronouncement : 15.09.2016

आदेश / O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the Revenue is directed against the order of the Commissioner of Income Tax (Appeals) –I, Chennai, dated 24.06.2014 and pertains to assessment year 2005-06.

2. The only issue arises for consideration is with regard to addition made by the Assessing Officer under Section 2(22)(e) of the Income-tax Act, 1961 (in short 'the Act').

3. Shri Shiva Srinivas, the Ld. Departmental Representative, submitted that the assessee-company has a common shareholder along with M/s Arjun Technologies (India) Ltd. M/s Arjun Technologies (India) Ltd. was having accumulated profits for distribution as dividend to the extent of ₹87,75,665/- as on 31.03.2004 and ₹1,49,09,446/- as on 31.03.2005. The Ld. D.R. further pointed out that M/s Arjun Global Holdings (Mauritius) Limited is a common shareholder in assessee-company as well as in M/s Arjun Technologies (India) Ltd., holding more than 20% of the shares. Therefore, according to the Ld. D.R., the money received by the assessee from M/s Arjun Technologies (India) Ltd. from its accumulated profit has to be treated as dividend under Section 2(22)(e) of the Act. However, according to the Ld. D.R., the CIT(Appeals) deleted the addition made by the Assessing Officer on the ground that the addition, if any, has to be made only in the hands of M/s Arjun Global Holdings (Mauritius) Limited and not in the hands of the assessee-company. According to the Ld. D.R., the

CIT(Appeals) is not justified in deleting the addition made by the Assessing Officer.

4. On the contrary, Shri Mohammed Shaffiq, the Ld.counsel for the assessee, submitted that the assessee-company is not a shareholder in M/s Arjun Technologies (India) Ltd. M/s Arjun Global Holdings (Mauritius) Limited was holding more than 20% shares in M/s Arjun Technologies (India) Ltd. as well as in the assessee-company. Therefore, according to the Ld. counsel, the addition, if any to be made, it has to be made only in the hands of M/s Arjun Global Holdings (Mauritius) Limited and definitely not in the hands of the assessee.

5. We have considered the rival submissions on either side and perused the relevant material available on record. It is not in dispute that the assessee is not a shareholder in M/s Arjun Technologies (India) Ltd. The assessee-company received a sum of ₹18,00,000/- from M/s Arjun Technologies (India) Ltd. The question arises for consideration is when the assessee-company is not a shareholder in M/s Arjun Technologies (India) Ltd., whether the receipt of ₹18,00,000/- can be treated as dividend under Section 2(22)(e) of the Act? The claim of the Revenue appears to be that

M/s Arjun Global Holdings (Mauritius) Limited is holding 20% shares in M/s Arjun Technologies (India) Ltd. as well as in the assessee-company, therefore, the amount of ₹18,00,000/- received by the assessee-company can be assessed as dividend. This Tribunal is of the considered opinion that the dividend has to be assessed only in the hands of the shareholder, for whose benefit the money was advanced. In this case, the assessee-company received the money and it is not a shareholder in M/s Arjun Technologies (India) Ltd. At the best, we may say that the money was advanced by M/s Arjun Technologies (India) Ltd. for the benefit of its shareholder, namely, M/s Arjun Global Holdings (Mauritius) Limited. If at all any addition has to be made under Section 2(22)(e) of the Act, it has to be made only in the hands of M/s Arjun Global Holdings (Mauritius) Limited and definitely not in the hands of the assessee. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

6. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 15th September, 2016 at Chennai.

sd/-

(डि.एस. सुन्दर सिंह)

(D.S. Sunder Singh)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 15th September, 2016.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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