

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 के समक्ष

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

आयकर अपील सं./ **I.T.A. No.1441/Mds/2013**
(निर्धारण वर्ष / Assessment Year : 2006 -2007)

The Assistant Commissioner of Income
Tax,
Circle XV,
Chennai 600 034.

M/s. Gomatesh Granites,
Vs. No.76, Cathedral Road,
Chennai 600 086.

(अपीलार्थी/Appellant)

[PAN : AAAFG3303J]

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Smt. Ruby George, IRS, CIT.
प्रत्यर्थी की ओर से / Respondent by : Shri. Philip George, Advocate

सुनवाई की तारीख/Date of hearing : 19.01.2015.

घोषणा की तारीख /Date of Pronouncement : 19.01.2015.

आदेश / O R D E R

PER B.R. BASKARAN, ACCOUNTANT MEMBER

The revenue has filed this appeal challenging the order dated 28.03.2013 passed by Ld CIT(Appeals)-XII, Chennai and it relates to the assessment year 2006-07. The revenue is aggrieved by the decision of Ld CIT(Appeals) in deleting the addition of ₹ 1.61 crores

made by the assessing officer relating to the difference in the outstanding balance of a creditor.

2. We heard the parties and perused the record. We notice that the revenue has carried out search and seizure operations u/s 132 of the Act on 26.7.2006 in the hands of Dodanavar Group of cases. The assessee was also one of the companies of that Group. The Assessing Officer noticed from the cash book seized at the time of search that the balance outstanding in the name of another concern named M/s Doddanavar Brothers was shown as ₹12,89,881/- as on 31.3.2006. The cash book pertained to the period from 3.12.2005 to the date of search. However, in the balance sheet the outstanding balance against the above said party was shown as ₹1,74,48,075/- as on 31.3.2006. Hence the assessing officer assessed the difference between the two figures cited above, i.e. ₹1,61,58,194/- (wrongly mentioned as ₹1,16,58,194/-) as income of the assessee. The Ld CIT(Appeals), however, deleted the said addition and hence the revenue is aggrieved.

3. A perusal of the order of Ld CIT(Appeals) shows that the first appellate authority has given a finding that the cash book seized at the time of search was a petty cash book, which normally does not

contain Journal entry transactions. Further he has noticed that the creditor cited above also belong to the same group and same set of employees were maintaining the books of both the companies. Further the above said party, M/s Doddanavar Brothers has shown the assessee as a debtor and has disclosed the outstanding balance as ₹1,76,41,469/-, which was higher than the amount disclosed by the assessee in its Balance Sheet. Under these set of facts, the Ld CIT(Appeals) has held that the Assessing Officer was not justified in making this addition.

4. From the forgoing discussions, it may be noticed that the assessing officer has made the impugned addition by comparing the rough cash book with the Balance Sheet. There should not be any dispute that the rough cash book is a temporary register maintained by the accounts department. Further it is not the case of the revenue that any of the receipt shown in the rough cash book was not accounted for in the main cash book. In the absence of such a finding, in our considered opinion, the rough cash book cannot form a basis for making the impugned addition. Even otherwise, we notice that the Ld CIT(Appeals) has compared the balance available with the

other party and accordingly he has rendered his decision. Under these set of facts, we do not find any reason to interfere with the order passed by Ld CIT(Appeals).

5. In the result, the appeal filed by the revenue is dismissed.

Order pronounced on the 19th 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

दिनांक/Dated:19.01.2015.

K.V

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant 2.प्रत्यर्थी/
Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF