

आयकर अपीलीय अधिकरण, बी / एस एम सी न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

B / SMC BENCH, CHENNAI

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

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

आयकर अपील सं./ITA No.850/Mds/2016

निर्धारण वर्ष / Assessment Year : 2010-11

M/s RJ Architects P Ltd.,

C/o S. Sridhar,

New No.14, Old No.82, Flat No.5,
1st Avenue, Indira Nagar, Adyar,

Chennai - 600 020.

v.

The Assistant Commissioner of

Income Tax (CPC),

Chennai - 600 034.

PAN : AADCR 5572 L

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri Murugabhoopathy, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 14.06.2016

घोषणा की तारीख/Date of Pronouncement : 18.08.2016

आदेश / O R D E R

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) – 3, Chennai, dated 16.02.2016 and pertains to assessment year 2010-11.

2. Shri S. Sridhar, the Ld. counsel for the assessee, submitted that the return filed by the assessee was processed under Section 143(1) of the Income-tax Act, 1961 (in short "the Act") by CPC. According to the Ld. Counsel, the assessee had considered a provision for taxation of ₹3,30,000/- as an item of admissible while arriving at the taxable income. Only by oversight the profit of ₹6,63,607/- was shown at inappropriate column in the return of income. Therefore, the Assessing Officer ought to have entertained the petition filed by the assessee under Section 154 of the Act to rectify an error / mistake committed by the assessee in the return of income.

3. I heard Shri Murugabhoopathy, the Ld. Departmental Representative also. As rightly submitted by the Ld. counsel for the assessee, the Ld. D.R. submitted that by oversight the assessee declared the profit at ₹6,63,607/- after adding back a sum of ₹3,30,000/- being the provision debited in the Profit & Loss account. According to the Ld. D.R., since there was bonafide error in the return of income, the same needs to be rectified.

4. I have considered the submissions of both the parties and perused the relevant material available on record. The CIT(Appeals) found that all the information furnished by the assessee was taken into consideration and thereafter the CPC rejected the application under Section 154 of the Act. The CIT(Appeals) has also observed that only arithmetic error may be allowed in a proceeding under Section 154 of the Act. In a proceeding under Section 154 of the Act, only a *prima facie* error, which is apparent on the face of record, can be rectified. When the assessee claims that by oversight, the assessee indicated the profit of ₹6,63,607/- in the inappropriate column in the return of income, this Tribunal is of the considered opinion that this fact needs to be verified by the Assessing Officer. After adding back ₹3,30,000/- being the provision for income-tax debited in the Profit & Loss account, the CPC has taken the taxable income of ₹9,05,308/- which was arrived at adding the provision of income-tax of ₹3,30,000/-. Therefore, there was a confusion whether the assessee has declared ₹6,63,607/- as claimed or ₹3,30,000/-. In the written submission, which was reproduced by the CIT(Appeals) in the impugned order, the assessee claims that it declared the income at ₹10,18,551/-. Since these are all arithmetic error, this Tribunal is of the considered opinion

that the Assessing Officer has to look into it. Accordingly, the orders of the authorities below are set aside and the Assessing Officer shall go through the return filed by the assessee and ascertain whether the income was rightly declared at the appropriate column in the return. Merely because the assessee has inadvertently declared income in the inappropriate column that cannot be taken as advantage by the Revenue. The Revenue authorities shall look into the claim of the assessee and make necessary adjustment as provided under the scheme of Income-tax Act. This Tribunal is of the considered opinion that in a proceeding under Section 154 of the Act, the assessee need not be given any opportunity. However, when the assessee claims that the income was shown in inappropriate column by oversight, this needs to be looked into. Accordingly the orders of the authorities below are set aside and the entire issue is remitted back to the file of the Assessing Officer. The Assessing Officer shall reconsider the issue and thereafter decide the issue in accordance with law after giving reasonable opportunity to the assessee.

5. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 18th August, 2016 at Chennai.

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

चेन्नई/Chennai,
दिनांक/Dated, the 18th August, 2016.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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