

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' BENCH, CHENNAI

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

श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.591/Chny/2018

निर्धारण वर्ष /Assessment Year : 2011-12

The Assistant Commissioner of
Income Tax,
Circle – 2,
Tirupur.

v.

M/s R. Easwaran HUF,
No.2/1004, Kurumankuttai
Thottam,
Palavanjipalayam Road,
Veerapandi Post,
Tirupur – 641 605.

(अपीलार्थी/Appellant)

PAN : AACHR 0736 G

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri V. Nandakumar, JCIT

प्रत्यर्थी की ओर से / Respondent by : Ms. Lakshmi, CA

सुनवाई की तारीख/Date of Hearing : 28.11.2018

घोषणा की तारीख/Date of Pronouncement : 03.12.2018

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) -3, Coimbatore, dated 08.12.2017, confirming the penalty levied by the Assessing Officer

under Section 271(1)(c) of the Income-tax Act, 1961 (in short 'the Act') for the assessment year 2011-12.

2. Shri V. Nandakumar, the Ld. Departmental Representative, submitted that the assessee claimed bad debts. However, the Assessing Officer disallowed the claim of the assessee on the ground that the debts were not written off. According to the Ld. D.R., while referring to the order of this Tribunal in quantum appeal, the Assessing Officer found that the bad debts were not genuinely written off. Hence, according to the Ld. D.R., the Assessing Officer levied penalty under Section 271(1)(c) of the Act to the extent of ₹61,69,074/-. Referring to the order of this Tribunal in I.T.A. No.168/Mds/2016 dated 21.10.2016, the Ld. D.R. submitted that this Tribunal confirmed the addition made by the Assessing Officer with regard to the claim of bad debts. Therefore, according to the Ld. D.R., the CIT(Appeals) is not justified in deleting the penalty.

3. On the contrary, Ms. Lakshmi, the Ld. representative for the assessee, submitted that out of ₹1,99,64,641/-, which was claimed as bad debts, this Tribunal found that but for a sum of ₹1,18,08,800/-, there was no actual written off. According to the Ld. representative, this Tribunal observed that there was an attempt by

the assessee to write off the account. Placing reliance on the judgment of Apex Court in CIT Vs. Reliance Petroproducts (P) Ltd. (2010) 322 ITR 158, the Ld. representative submitted that a mere claim of bad debt in the return of income does not amount to furnishing inaccurate particulars of income or concealing any part of the assessee's income. Therefore, according to the Ld. representative, the CIT(Appeals) has rightly deleted the penalty. On a query from the Bench, the Ld. representative very fairly submitted that against the order of this Tribunal, an appeal was already filed before the High Court and the same was admitted and pending for adjudication.

4. 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 has furnished all the particulars of its income and claimed a part of amount as bad debts. The Revenue doubts the claim of the assessee on the ground that it was not written off. It is also not in dispute that this Tribunal found that the bad debts were not written off in the books. The question arises for consideration is when the assessee has furnished entire details of income and the details of debts and claims a part of debts as bad

debts, whether it would amount to furnishing inaccurate particulars of income or concealing any part of income? The Apex Court in the case of Reliance Petroproducts (P) Ltd. (supra) found that a mere claim in the return of income after furnishing entire details, does not amount to furnishing inaccurate particulars of income or concealing any part of income. In view of this judgment of Apex Court in Reliance Petroproducts (P) Ltd. (supra), this Tribunal is of the considered opinion that the CIT(Appeals) has rightly deleted the penalty. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

5. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced in the court on 3rd December, 2018 at Chennai.

sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 3rd December, 2018.

Kri.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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