

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' BENCH, CHENNAI

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

श्री अब्राहम पी.जॉर्ज, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.999 & 1000/Chny/2018

निर्धारण वर्ष /Assessment Years : 2008-09 & 2009-10

Dr. S.B. Kumari,
No.6B, "C" Block, Anugraha
Apartment, No.19,
Nungambakkam High Road,
Chennai - 600 034.

v. The Deputy Commissioner of
Income Tax,
Central Circle – 1(1),
Chennai - 600 034.

PAN : AJMPK 6466 F

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Sh. P. Ranga Ramanujam, CA

प्रत्यर्थी की ओरसे / Respondent by : Shri Homi Rajvansh, CIT

सुनवाई की तारीख/Date of Hearing : 12.02.2019

घोषणा की तारीख/Date of Pronouncement : 07.03.2019

आदेश /O R D E R

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

Both the appeals of the assessee are directed against the respective orders of the Commissioner of Income Tax (Appeals) - 18, Chennai, dated 17.01.2018, for the assessment years 2008-09 and 2009-10. Since common issue arises for consideration in both

the appeals, we heard these appeals together and disposing the same by this common order.

2. Let's first take I.T.A. No.999/Chny/2018 for assessment year 2008-09.

3. Sh. P. Ranga Ramanujam, the Ld. representative for the assessee, submitted that the opening capital account of the assessee as on 01.04.2007 was ₹1,39,48,566/-. However, according to the Ld. representative, the Assessing Officer refused to accept the claim of the assessee on the ground that the closing balances in UCO Bank and Indian Bank were not disclosed to the Department. Referring to the copy of return of income filed by the assessee, the Ld. representative submitted that there is no column in the return of income to disclose the bank account. At the best, the assessee can disclose the interest accrued / credited to the account to the Department for taxation. According to the Ld. representative, the entire funds were from the known source of income. In the absence of any clause in the return of income regarding bank account, according to the Ld. representative, it cannot be said that the assessee failed to disclose the accounts in UCO Bank, Saidapet Branch and Indian Bank, Alwarpet Branch.

Moreover, according to the Ld. representative, there was no deposit during the year under consideration. These are all closing balances as on 31.03.2007. Therefore, according to the Ld. representative, it cannot be considered for addition during the year under consideration.

4. On the contrary, Shri Home Rajvansh, the Ld. Departmental Representative, submitted that the accounts maintained with UCO Bank, Saidapet Branch and Indian Bank, Alwarpet Branch were not disclosed to the Department at all. According to the Ld. D.R., the closing balance as on 31.03.2007 at UCO Bank, Saidapet Branch was ₹45,16,188/-. The closing balance as on 31.03.2007 at Indian Bank, Alwarpet Branch was ₹10,48,344/-. Since the bank accounts were not disclosed to the Department, according to the Ld. D.R., the credit available in the bank accounts is considered as undisclosed income for the assessment year 2008-09.

5. We have considered the rival submissions on either side and perused the relevant material available on record. Admittedly, a sum of ₹1,39,48,566/- was found to be closing balance. The opening balance as on 01.04.2007 was ₹83,84,034/-. The closing balance at UCO Bank was ₹45,16,188/-. The closing balance at

Indian Bank was ₹10,48,344/-. Admittedly, all these amounts were closing balances as on 31.03.2007. It is not a fresh deposit during the year under consideration. This Tribunal is of the considered opinion that when the deposits were made in the bank account, it has to be considered for the year in which the deposits were made in the bank account. Admittedly, no deposit was made during the year under consideration. Moreover, as rightly submitted by the Ld. representative for the assessee, there was no column in the return of income to disclose the bank accounts. At the best, the accrued / credited interest on the account as on 31.03.2007 might have been disclosed to the Department. Admittedly, no addition was made towards interest. In those circumstances, this Tribunal is of the considered opinion that there cannot be any addition with regard to closing balance found in the bank accounts as on 31.03.2007. Therefore, this Tribunal is unable to uphold the orders of both the authorities below. Accordingly, the orders of both the authorities below are set aside and the addition of ₹1,39,48,566/- is deleted.

6. Now coming to assessment year 2009-10 in I.T.A. No.1000/Chny/2018, Sh. P. Ranga Ramanujam, the Ld.

representative for the assessee, submitted that the Assessing Officer found that there was a deposit of ₹94,33,290/- in the Savings Bank Account maintained by the assessee at Indian Bank, Alwarpet Branch. According to the Ld. representative, the assessee has explained the source of deposit. The sum of ₹94,33,290/- is nothing but a cheque deposited in the Indian Bank. Referring to copy of certificate issued by the banker, the Ld. representative submitted that on the basis of the cheque issued by M/s Global Exports, a partnership firm, a demand draft was issued in favour of the assessee for ₹94,33,290/-. Referring to bank accounts, copy of which are available at pages 11 to 13, the Ld. representative submitted that M/s Global Exports, a partnership firm issued cheque for ₹94,41,144/- for issue of banker's cheque in favour of the assessee. The bank after deducting its commission, issued cheque / DD for ₹94,33,290/-. In spite of these facts, according to the Ld. representative, the Assessing Officer made addition which was confirmed by the CIT(Appeals).

7. On the contrary, Shri Homi Rajvansh, the Ld. Departmental Representative, submitted that there was no co-relation between the amounts mentioned in the bank account of M/s Global Exports

and that of the assessee. On a query from the Bench, the Ld. D.R. clarified that what was deposited by the assessee for ₹94,33,290/- is a cheque and not cash deposit.

8. We have considered the rival submissions on either side and perused the relevant material available on record. Admittedly, the assessee had deposited a cheque in Indian Bank for ₹94,33,290/-. The Assessing Officer wrongly mentioned it as a cash deposit. The material available on record clearly shows that M/s Global Exports, a partnership firm issued a cheque to Indian Bank for issuing Demand Draft in favour of the assessee to the extent of ₹94,41,144/-. The bank after accepting the cheque, issued a Demand Draft in favour of the assessee for ₹94,33,290/-. The difference is the commission taken by the Indian Bank. This was also clarified by the bank by a certificate, a copy of which is available at page 5 of the paper-book. The assessee has also filed a copy of Demand Draft issued by Indian Bank in her favour. The assessee has also filed an affidavit explaining the situation / circumstances under which the cheque was issued. In those factual situation, this Tribunal is of the considered opinion that the deposit of ₹94,33,290/- was explained by the assessee. Therefore, we are

unable to uphold the orders of the authorities below. Accordingly, the orders of the authorities below are set aside and the addition of ₹94,33,290/- is deleted.

9. In the result, both the appeals of the assessee are allowed.

Order pronounced in the court on 7th March, 2019 at Chennai.

sd/-
(अब्राहमपी.जॉर्ज)
(Abraham P. George)
लेखा सदस्य/Accountant Member

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

चेन्नई/Chennai,
दिनांक/Dated, the 7th March, 2019.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-18, Chennai-34
4. Principal CIT, Central-1, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.