

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.3039/CHNY/2018

(निर्धारण वर्ष / Assessment Years: 2011-12)

M/s. Ejaz Tannin Company,
New No.15, Old No.98,
V.V. Koil Street, Periamet,
Chennai – 600 003.

PAN: AAAFE7758D

(अपीलार्थी/Appellant)

Vs The ACIT,
Non-Corporate Circle – 4,
Chennai

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri K.Ravi, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri G. Chandrababu, Addl.CIT

सुनवाई की तारीख/Date of hearing

: 08.12.2020

घोषणा की तारीख /Date of Pronouncement

: 23.12.2020

आदेश / ORDER

Per S.JAYARAMAN, AM:

The assessee filed this appeal against the order of the learned Commissioner of Income Tax (Appeals)-5, Chennai, in ITA No75/CIT(A)-5/2016-17 dated 27.09.2018 for the assessment year 2011-12.

2. M/s. Ejaz Tanning Co., the assessee's assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') dated 31.12.2013 for the assessment year 2011-12 was subject matter of revision u/s.263 of the Act and the CIT(A), Chennai-9 by an order u/s.263 of the Act in C.No.12/263(ET)/CIT-9/14-15 dated 19.12.2014, inter alia, set aside with certain directions to the AO to pass order as per law. The AO gave effect to the order u/s.263 of the Act, by an order dated 26.02.2016 determining the income at Rs.2,37,76,280/-. On appeal, the Id.CIT(A) dismissed the appeal in ITA No.75/CIT(A)-5/2016-17 dated 27.09.2018. Aggrieved against that order, the assessee filed this appeal.

3. The case was heard through video conferencing. The Id.AR submitted that although the assessee has taken various grounds in appeal, he pleaded that the order dated 26.02.2016 passed by the AO giving effect to the order passed u/s.263 dated 19.12.2014 is barred by limitation u/s.153(5) of the Act and hence pleaded to quash the order. Per contra, the Id.DR supported the order of the Id.AO.

4. We heard the rival submissions and gone through relevant orders / material. As per Sub-section (3) of Section 153 of the Act, an order of fresh assessment in pursuance of an order u/s.263 of the Act,

setting aside or cancelling an assessment, may be made at any time before the expiry of nine months from the end of the financial year in which the order u/s.263 of the Act is passed by the Commissioner. Therefore, the order giving effect to that order passed by the AO dated 26.02.2016 is clearly beyond the time limit allowed u/s.153(3) of the Act and hence the Id.AR's plea is sustained. The order of the AO dated 26.02.2016 is quashed.

5. In the result, the assessee's appeal is allowed.

Order pronounced on 23rd December, 2020 at Chennai.

Sd/-

(धुव्वुरु आर एल रेड्डी)
(Duvvuru R.L Reddy)

न्यायिक सदस्य/Judicial Member

Sd/-

(एस जयरामन)
(S. Jayaraman)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 23rd December, 2020

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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