

IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

**BEFORE Dr. O.K.NARAYANAN, VICE-PRESIDENT
AND SHRI HARI OM MARATHA, JUDICIAL MEMBER**

I.T.A. No.1396/Mds/2010
Assessment Year : 2006-07

M/s. S.P.G. Ramasamy Nadar
& Sons,
77/1, South Car Street,
Virudhunagar.
PAN: AAFFS3162E

The Assistant Commissioner of
Income Tax, Circle-I,
Vs. Virudhunagar.

(Appellant)

(Respondent)

Appellant by : Mr. G.Baskar, Advocate
Respondent by : Mr. Shaji P.Jacob, IRS.,
Commissioner of Income Tax

Date of Hearing : 8th December, 2011
Date of Pronouncement : 8th December, 2011

ORDER

PER Dr.O.K.NARAYANAN, VICE-PRESIDENT:

This appeal is filed by the assessee. The relevant assessment year is 2006-07. The appeal is directed against the order of the Commissioner of Income Tax(Appeals)-II at Madurai dated 28.06.2010 and arises out of the assessment completed under section 143(3) of the Income Tax Act, 1961.

2. The ground raised by the assessee is that the Commissioner of Income Tax(Appeals) has erred in confirming that cash assistance is taxable in the hands of the assessee. It is the case of the assessee that the Commissioner of Income Tax(Appeals) himself has allowed the claim of the assessee for the earlier assessment year and he is taking inconsistent view as far as the impugned assessment year is concerned. It is also the grievance of the assessee that the alternative plea that cash assistance is not to be taxed under the head "business" as it represented a capital asset which had no cost.

3. We heard both sides on the issue. On the ground raised by the assessee that the cash assistance should be treated as a capital asset does not hold good in law. The ground is rejected. As far as the other issue is concerned, it is necessary to re-compute the benefits available to the assessee and as such this matter has to be sent back to the assessing authority for fresh consideration. With reference to the contentions raised in ground no.2 and 3, the file is

remitted back to the Assessing Officer for de novo consideration.

4. In result, this appeal is treated as partly allowed for statistical purposes.

Order pronounced in the open court at the time of hearing on Friday, the 8th December, 2011 at Chennai.

Sd/-
(Hari Om Maratha)
Judicial Member
Chennai,
Dated the 8th December, 2011.

Sd/-
(Dr. O.K.Narayanan)
Vice-President

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Copy to: (1) Appellant (4) CIT(A)
(2) Respondent (5) D.R.
(3) CIT (6) G.F.