

**आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"C" BENCH, CHENNAI**

**माननीयश्रीवी. दुर्गराव, न्यायिकसदस्यएवं**  
**माननीयश्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI V. DURGA RAO, JUDICIAL MEMBER AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकरअपीलसं./ **ITA No.847/Chny/2019**  
(निर्धारणवर्ष / **Assessment Year: 2005-06**)

<b>K.C. Marketing</b> 16/18, General Muthia Street, 108, Ram Lakhan Chamber 1 <sup>st</sup> Floor, Sowcarpet, Chennai – 600 079.	<b>बनाम/</b> Vs.	<b>ACIT</b> Non Corporate Circle 11, Chennai.
स्थायीलेखासं./जीआइआरसं./ <b>PAN/GIR No. AAFFK-4837-Q</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Shri J. Prabhakar (CA) – Ld. AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Shri G. Johnson (Addl.CIT) – Ld. DR

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	05-01-2022
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	17-01-2022

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. The assessee is in third round of appeal before us. This appeal by assessee for assessment year 2005-06 arises out of the order of Ld. Commissioner of Income Tax Appeals -13, Chennai, [CIT(A)], dated 28.12.2018 in the matter of assessment framed by Ld. Assessing Officer (AO) u/s. 143(3) r.w.s. 254 of the Act on 26.12.2017. In this appeal, the

assessee is aggrieved by confirmation of addition of Rs.13.19 Lacs and another addition of Rs.11,500/-.

2. Having heard rival submissions and after going through the orders of lower authorities, our adjudication would be as under.

3.1 The assessee being resident firm is stated to be engaged as a dealer in Basmati Rice. In an assessment framed u/s 143(3) on 28.07.2006, the assessee was, inter-alia, saddled with addition of Rs.18.46 Lacs being contract receipts not offered to tax. During appellate proceedings, the assessee submitted that these amounts were received from its principal M/s Satnam Overseas Ltd. towards reimbursement of expenses. It was pointed out that full and complete details were available on record and all the entries were supported by bills raised against the principal for reimbursement of various expenditure incurred by the assessee on their behalf. It was argued that certain amount was deducted as tax at source but for the same reason alone, the amount would not become taxable in the hands of the assessee. In support, the assessee also submitted copies of TDS certificate and various other evidences. Finding merit in the same, Ld. CIT(A) granted partial relief to the assessee and send the matter back to the file of Ld. AO to the extent of reimbursement of Rs.13.19 Lacs for re-examination. Upon further appeal by revenue on the admission of additional evidences by learned first appellate authority, the co-ordinate bench of Tribunal, vide ITA No.190/Mds/2009 dated 24.12.2009 observed that if Ld. AO has already passed consequential order, then nothing would remain to be done.

3.2 We find that consequential order was passed by Ld. AO on 16.02.2009 wherein the addition was again repeated. Upon further

appeal by assessee, Ld. CIT(A) confirmed the stand of Ld. AO. Aggrieved, the assessee approached Tribunal vide ITA No.1290/Mds/2016 order dated 18.10.2016 wherein it was observed that the order passed by Ld. AO on 16.02.2009 was cryptic one and not a speaking order. Therefore, the matter was sent back to the file of Ld. AO for fresh consideration.

3.3 Pursuant to these directions, another order has been passed by Ld. AO on 26.12.2017 wherein the assessee furnished the details as called for by Ld. AO and furnished particulars of payments made to various parties on behalf of its principal firm M/s Satnam Overseas Ltd. The same has been tabulated in para-6 of the assessment order. It could be seen that the assessee supplied the name of the party, amount paid to each of them, TDS deducted along with the nature of expenditure. All these expenditures were incurred by the assessee on behalf of M/s Satnam Overseas Ltd. However, Ld. AO erroneously observed that the assessee claimed TDS to the extent of Rs.13.19 Lacs which was deducted by M/s Satnam Overseas Ltd. towards contract receipts. The very fact that the assessee did not claim above mentioned TDS amount was to conceal contract receipts. Further, the assessee could not produce sufficient documents in support of the claim. Therefore, the disallowance of Rs.13.19 Lacs was confirmed. The assessee had also paid professional fees of Rs.11,500/- which was stated to be reimbursed by principal after deduction of tax at source. However, since the assessee did not claim TDS credit of Rs.646/-, the amount of Rs.11,500/- was also added back to the income of the assessee. The Ld. CIT(A) noted that the relation between the assessee and M/s Satnam Overseas Ltd was on principal-to-principal basis and therefore, the claim

that the expenses were reimbursed appear to be false and misleading. Finally, the disallowance was confirmed against which the assessee is in further appeal before us. No finding was rendered with respect to addition of Rs.11,500/-.

4. Upon perusal of ledger extract of M/s Satnam Overseas Ltd. as placed on record (page nos. 87 to 115), it could be gathered that that assessee has claimed various expenditure from its principal by way of reimbursement. The copies of relevant bills as well as credit notes issued by M/s Satnam Overseas Ltd. in favor of assessee has also been placed on page nos. 38 to 83 of paper-book. The statement of TDS deducted by assessee's principal is also on record. Upon perusal of copies of financial statements as placed on record, it could be noted that the Profit & Loss Account has been credited as well as debited for the amount incurred by assessee on behalf of its principal. All these overwhelming evidences, in our considered opinion, support the case of the assessee and there is no concealment of income as alleged by lower authorities. The TDS may have been deducted by the principal while reimbursing the payment to the assessee, nevertheless, the same were mere reimbursements and could not be held to be the income of the assessee from any angle. Therefore, by deleting both the additions, we allow the appeal.

5. The appeal stand allowed in terms of our above order.

Order pronounced on 17<sup>th</sup> January, 2022.

**Sd/-**

**(V. DURGA RAO)**

**न्यायिकसदस्य /JUDICIAL MEMBER**

**Sd/-**

**(MANOJ KUMAR AGGARWAL)**

**लेखासदस्य /ACCOUNTANT MEMBER**

चेन्नई/ Chennai; दिनांक/ Dated : 17-01-2022

***JPV***

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR6. गार्डफाईल/GF