

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH : CHENNAI

**श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री ए. मोहन अलकामणी, लेखा सदस्य के समक्ष ।**
[BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER]

S.P.No.86/Mds/2016
[in I.T.A.No.2069/Mds/2015]
Assessment year : 2010-11

Shri B. Kamaraj
74, Jinnah Street
Erode 638 001
[PAN BJUPK 9323 G]
(Petitioner)

Vs. The Income Tax Officer
Ward I(2)
Erode
(प्रत्यर्थी/Respondent)

Petitioner by : Shri S.Sridhar, Advocate
Respondent by : Shri Sundar Rao, CIT/DR
सुनवाई की तारीख/Date of Hearing : 21-03-2016
घोषणा की तारीख /Date of Pronouncement : 21-03-2016

आदेश / ORDER

PER N.R.S.GANESAN, JUDICIAL MEMBER

The assessee filed the present stay petition praying for the stay of operation of the order of the Principal Commissioner of Income-tax-2, Coimbatore, dated 30.3.2015, passed u/s 263 of the Income-tax Act, 1961.

2. Shri S.Sridhar, Id. Counsel for the assessee submitted that the Assessing Officer completed the assessment u/s 143(3) of the Act

by an order dated 28.3.2013. The Principal Commissioner of Income-tax in the guise of exercising his power u/s 263 of the Act, issued show cause notice calling for the objection of the assessee. The Principal Commissioner of Income-tax has also revised the order of the Assessing Officer and directed the Assessing Officer to reexamine the matter. According to the Id. Counsel, the Principal Commissioner of Income-tax issued show cause notice in respect of one ground, however, revised the order on the basis of another ground which was not put to the assessee. Therefore, the assessee has a prima facie case before this Tribunal, hence, operation of the order passed by the Principal Commissioner of Income-tax may be stayed.

3. We heard Shri Sundar Rao, Id. Departmental Representative also.

4. Having heard the Id. Counsel for the assessee and the Id. DR, we find that the assessee is challenging before this Tribunal the order passed by the Principal Commissioner of Income-tax in exercise of his power u/s 263 of the Act. As rightly submitted by the Id. Counsel for the assessee, the show cause notice issued by the Principal Commissioner of Income-tax is on one ground and the order was revised on the basis of another ground, therefore, this Tribunal is of the considered opinion that there is a prima facie case for granting

stay. Accordingly, operation of the order of the Principal Commissioner of Income-tax dated 30.3.2015 is hereby stayed.

5. In the result, the stay petition filed by the assessee is allowed.

Order pronounced in the open court on 21st March, 2016, at Chennai.

Sd/-

(ए. मोहन अलंकामणी)

(A. MOHAN ALANKAMONY)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai

दिनांक/Dated: 21st March, 2016

RD

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. GANESAN)

न्यायिक सदस्य/JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. Petitioner

2. प्रत्यर्था/Respondent

3. आयकर आयुक्त (अपील)/CIT(A)

4. आयकर आयुक्त/CIT

5. विभागीय प्रतिनिधि/DR

6. गार्ड फाईल/GF