आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"A" BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री चंद्र पूजारी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER

आयकर अपील सं./**ITA No.2201/Mds/2014**
निर्धारण वर्ष / Assessment Year : 2010-11

M/s The R.S. Puram Club, No.1, TRC Subramaniam Road, R.S. Puram, Coimbatore – 641 002.	v.	The Income Tax Officer, Company Ward I, Coimbatore.
PAN : AAAAT 8258 Q (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri R. Rajan, FCA
प्रत्यर्थी की ओर से/Respondent by : Shri P. Radhakrishnan, JCIT

सुनवाई की तारीख/Date of Hearing : 05.05.2015
घोषणा की तारीख/Date of Pronouncement : 08.05.2015

आदेश /O R D E R

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

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-I, Coimbatore, dated 12.06.2014 and pertains to assessment year 2010-11.

2. There was a delay of 13 days in filing this appeal by the assessee. The assessee has filed a petition for condonation of delay. We have heard the Ld. representative and the Ld. D.R. We find that there was sufficient cause for not filing the appeal before the stipulated time. Therefore, we condone the delay and admit the appeal.

3. Shri R. Rajan, the Ld. representative for the assessee, submitted that the only issue arises for consideration is with regard to addition of ₹4,42,498/- towards interest from bank deposits. According to the Ld. representative, the assessee is a club and the entire income is exempted from taxation on the principle of mutuality. The Ld. representative further submitted that the assessee deposited the surplus funds which are not required immediately, in the bank account and earned interest. The interests earned by the assessee were used in the club activities. Therefore, the interest earned by the assessee is eligible for exemption on the principle of mutuality. Referring to the judgment of the Apex Court in CIT v. Bangalore Club in Civil Appeal 124 of 2007, the Ld. representative submitted that in the case of Bangalore Club (supra), the bank was a member in the club. Therefore, the Apex Court found that the interests earned by the club on deposit of surplus

funds with such bankers are not entitled for exemption. In this case, according to the Ld. representative, the banks are not members of the assessee-club. Therefore, the judgment of the Apex Court in Bangalore Club (supra) may not be applicable to the facts of the case.

4. On the contrary, Shri P. Radhakrishnan, the Ld. Departmental Representative, submitted that money was deposited with the bank for the purpose of earning interest. During the course of banking business, the bank advanced money to its customers. Therefore, the transaction made by the assessee was outside the scope of mutuality, hence, it cannot be identified by the contributors and the participants. Therefore, the principle of mutuality is not applicable in respect of bank interest.

5. We have considered the rival submissions on either side and perused the relevant material on record. The Apex Court in the case of Bangalore Club (supra) considered the issue elaborately and found that when the surplus funds are deposited with bank, it goes outside the scope of mutuality. Therefore, the transaction between the contributors and participants cannot be identified. The assessee made an attempt to distinguish this judgment of the Apex Court in the case of Bangalore Club (supra) on the ground that the

banks are not members of the assessee-Club. This Tribunal is of the considered opinion that merely because the banks are not members of the assessee-Club, the situation may not change. When the banks are not members of the assessee-Club and they received deposits from the assessee and used the same for banking business, this Tribunal is of the considered opinion that the interest earned by the assessee on such deposits cannot have the benefit of mutuality. In other words, as found by the Apex Court in Bangalore Club (supra), it goes outside the scope of mutuality. Therefore, the assessee is not eligible for exemption of interest earned on the bank deposits.

6. In view of the above, we do not find any infirmity in the order of the CIT(Appeals). Accordingly, the same is confirmed.

7. In the result, the appeal of the assessee is dismissed.

Order pronounced on 8th May, 2015 at Chennai.

Sd/-	sd/-
(Chandra Poojari)	(N.R.S. Ganesan)
(चंद्र पूजारी)	(एन.आर.एस. गणेशन)
लेखा सदस्य/Accountant Member	न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 8th May, 2015.
Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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