

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'A' BENCH, CHENNAI**

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं  
श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND**  
**SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER**

आयकरअपीलसं./I.T.A.No.561/Mds/2017  
(निर्धारणवर्ष / Assessment Year: 2012-13)

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|--------------------------------------------------------------------------------------|----|-----------------------------------------------------------------------------------------------------------------------------------|
| The Asstt. Commissioner of<br>Income Tax,<br>Corporate Circle 1(2),<br>Chennai – 34. | Vs | M/s. Chevron Petroleum India Pvt.<br>Ltd.,<br>No.108, Armenian Street,<br>King & Patridge, Catholic Centre,<br>Chennai – 600 001. |
|                                                                                      |    | PAN: AAAC4291P                                                                                                                    |
| (अपीलार्थी/Appellant)                                                                |    | (प्रत्यर्थी/Respondent)                                                                                                           |

|                                |   |                                                     |
|--------------------------------|---|-----------------------------------------------------|
| अपीलार्थीकीओरसे/ Appellant by  | : | Shri Gopi Krishna, JCIT                             |
| प्रत्यर्थीकीओरसे/Respondent by | : | Shri G. Baskar & Ms. A. Sushma<br>Harini, Advocates |

|                                     |   |            |
|-------------------------------------|---|------------|
| सुनवाईकीतारीख/Date of hearing       | : | 03.05.2017 |
| घोषणाकीतारीख /Date of Pronouncement | : | 10.07.2017 |

**आदेश / ORDER**

**PER A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER:-**

This appeal by the Revenue is directed against the order passed by the Ld. Commissioner of Income Tax (Appeals)-1, Chennai dated 29.12.2016 in ITA No.152/CIT(A)-1/2015-16 for the assessment year 2012-13 passed u/s.250(6) r.w.s.143(3) of the Act.

2. The Revenue has raised three grounds in its appeal, however the crux of the issue is that the Ld.CIT(A) has erred in granting relief to the tune of Rs.11,69,646/- for the assessment year 2012-13 with respect to the tax credit arising out of tax deducted at source.

3. The brief facts of the case are that the assessee is private limited company filed the return of income for the assessment year 2012-13 on 27.09.2012 declaring total income as 'Nil'. Subsequently the case was selected for scrutiny and finally order was passed U/s.143(3) of the Act on 25.03.2015, wherein the Ld.AO rejected the claim of the assessee towards tax credit arising out of tax deducted at source. It was observed by the Ld.AO that the assessee had claimed tax credit of Rs.11,69,606/- for the relevant assessment year. It was further observed that the tax credit of Rs.11,69,606/- was tax deducted at source from the receipt of Rs.1,14,71,969/- which was offered as income in the assessment years 2010-11 & 2011-12 by the assessee. For those assessment years, the assessee had paid the tax. However the Ld.AO opined that though the amount of Rs.11,69,606/- was shown as tax credit to the assessee for the assessment year 2012-13, as per Form 26AS the benefit of the same cannot be granted to the

assessee because the assessee has booked the receipt during the earlier financial years and not during the relevant financial year. However, on appeal the Ld.CIT(A) granted relief to the assessee by observing as under:-

*“6. Similar stands have been taken by the ITAT, Chennai, in the case of ITO Vs. G.D. Gopal (1 ITD 946), ITAT, Calcutta in Kedia Textiles Pvt. Ltd Vs. IAC and ITAT, Amritsar in the case of societD’ Engineering Vs. ACIT (65 SOT 45). In the case of Kedia Textiles (31 TTJ 401), the Hon’ble Calcutta Tribunal has held that unless TDS is deposited with the exchequer and proof is filed, the deductee will not be entitled to take credit.*

*7. In the case of Toyo Engg India Ltd Vs. JCIT (100 TTJ 373), the Mumbai bench of the tribunal held that it may not be possible all the time to correlate a specific amount of TDS with a specific amount of income earned by the assessee in a particular assessment year. It has further held that the nexus between the TDS and the income earned is notional and conceptual rather than specific and immediate.”*

4. At the outset, we find merit in the order of the Ld.CIT(A). As observed by the Ld.CIT(A), Section 199 of the Act come to the rescue of the assessee. In the case of the assessee, the assessee had paid the tax due in the year in which he has declared the receipt of Rs. 1,14,71,969/- against which TDS of Rs.11,69,606/- was deducted and the assessee had not claimed the tax credit during that assessment year. The deductor of the TDS had mistakenly stated in the form 26A that the tax was deducted during

the assessment year 2012-13 and accordingly issued the assessee with the Form 26AS though the tax was deducted in the earlier assessment years. It is pertinent to mention that the assessee is not in control of such act of the tax deductor. Moreover the assessee had declared the amount received from the tax deductor as income during the earlier assessment years when such amount was received and paid the tax that was due. In this situation, the assessee is entitled for the benefit of the tax deducted by the deductor in the relevant assessment year. Therefore we do not find any infirmity in the order of the Ld.CIT(A) on this issue.

5. In the result, appeal of the Revenue is dismissed.

Order pronounced on the 10<sup>th</sup> July, 2017 at Chennai.

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

Sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 10<sup>th</sup> July, 2017

JR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त (अपील)/CIT(A)

4. आयकर आयुक्त/CIT

5. विभागीय प्रतिनिधि/DR

6. गार्ड फाईल/GF