

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

श्री चंद्र पूजारी, लेखा सदस्य एवं
श्री चल्ला नागेन्द्र प्रसाद, न्यायिक सदस्य के समक्ष
BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER &
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
आयकर अपील सं./ **I.T.A. No.514/Mds/2015**
(निर्धारण वर्ष / Assessment Year : 2006-2007)

Smt. Hemalata Bhaiya,
No.68/4, Godown Street,
1st Floor,
Chennai 600 001.

The Income Tax Officer,
Vs Business Ward –VIII (4),
Chennai.

[PAN: AABPH 4528H]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri. N.K. Mohnot, I.T.P.
प्रत्यर्थी की ओर से / Respondent by : Dr. Nischal, IRS, JCIT.

सुनवाई की तारीख/Date of hearing : 13.04.2015
घोषणा की तारीख /Date of Pronouncement : 13.04.2015.

आदेश / O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER

This appeal by assessee is directed against the order of the Commissioner of Income Tax (Appeals)-13, Chennai, dated 27.11.2014 for the assessment year 2006-2007.

2. The assessee has raised the following grounds:

- “1. The order dated 27.11.2014 passed by learned Commissioner of Income Tax (Appeals) 13, Chennai 600 034, is quite arbitrary, illegal and contrary to the facts of the case of your appellant.
2. The learned CIT(A) fails in giving the proper opportunity of hearing.
3. The learned CIT(A) erred in not giving fresh opportunity after restructuring of jurisdiction.
4. The learned CIT(A) has further erred in not appreciating the facts of the case”.

3. The brief facts of the case are that the assessee is an individual and had not filed the return of income for the assessment year 2006-07. But the assessee filed her return of income for the assessment year 2008-09 on 09.07.2010 through which it was noted that the assessee had income from Capital Gains, Interest & Opening Capital pertaining to financial year 2005-06 relevant to assessment year 2006-07. After obtaining approval from the JCIT, the assessment for the A.Y. 2005-06 of the assessee was re-opened, by the Assessing Officer by issue of notice u/s.148 on 12.08.2012. Since, the assessee did not respond to the notice, a reminder letter dated 24.09.2012 was issued. In response to the reminder letter, the assessee filed a letter stating that *"Return of Income filed for the assessment year may kindly be treated as one filed in response to your above notice..... I am trying to get a copy of ack. From my erstwhile auditor from Mumbai who have filed my returns....."*. Later on, after another reminder, the assessee filed a letter on 27.09.2013 stating that *" I object to the above proceedings, since I have already filed my Return of Income for the*

assessment year on 4th Decmber, 2006 vide acknowledgement no.121106702 with ITO-12(1) (1), Mumbai." But, the assessee did not furnish copies or evidence for having filed the Return of Income. Hence, the Assessing Officer sent a letter to the ITO 12(1) (1), *Mumbai and in reply dated 09.10.2013, the ITO, Mumbai stated that 'no Returns are filed by Smt. Hemalata Bhaiya (PAN AABPH 4528H) on the dates and ackn. numbers stated in her letter dated 27.09.2013."* Finally, the Assessing Officer issued a notice dated 17.01.2014 to the assessee proposing the additions based on the material available on records. In response, no one appeared and furnished any detail or evidence. Therefore, the Assessing Officer concluded the assessment u/s.144 r.w.s. 147 by determining the taxable income at ₹70,73,540/-. Aggrieved, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals).

4. The case was fixed for hearing on 13.11.2014 before the Commissioner of Income Tax (Appeals). The assessee filed a letter dated 13.11.2014 seeking adjournment. However, the Commissioner of Income Tax (Appeals) denied the adjournment and dismissed the appeal. Against this, the assessee preferred an appeal before us.

5. The Id. Authorised Representative prayed for giving one more opportunity to present the case before the Commissioner of Income Tax

(Appeals) and submitted that the assessee's non appearance before the Commissioner of Income Tax (Appeals) was neither willful nor wanton.

6. The Id. Departmental Representative has not raised any serious objection for giving one more opportunity to the assessee.

7. Accordingly, in the interest of justice, we remit the entire issue back to the file of the Commissioner of Income Tax (Appeals) with the direction to the Commissioner of Income Tax (Appeals) to give one more opportunity to the assessee to put forth the assessee's case and decide the issue afresh.

8. In the result, the appeal of the assessee in ITA No.514/Mds/2015 is partly allowed for statistical purposes.

Order pronounced on Monday, the 13th day of April, 2015, at Chennai.

Sd/-

(चल्ला नागेन्द्र प्रसाद)

(CHALLA NAGENDRA PRASAD)

न्यायिक सदस्य/ JUDICIAL MEMBER

चेन्नई/Chennai.

दिनांक/Dated:13.04.2015.

KV

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.

Sd/-

(चंद्र पूजारी)

(CHANDRA POOJARI)

लेखा सदस्य/ ACCOUNTANT MEMBER

