

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1104/Mds/2016

निर्धारण वर्ष / Assessment Year : 2011-12

The Income Tax Officer,
Corporate Ward 4(3),
Chennai - 600 034.

v. Shri T.G.S. Mahesh,
No.145, Second Main Road,
Ranga Reddy Gardens,
Neelankarai, Chennai - 600 041.

(अपीलार्थी/Appellant)

PAN : AFYPM 6140 E

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri A.V. Sreekanth, JCIT

प्रत्यर्थी की ओर से/Respondent by : Ms. S. Deepa, CA

सुनवाई की तारीख/Date of Hearing : 15.03.2017

घोषणा की तारीख/Date of Pronouncement : 20.04.2017

आदेश / O R D E R

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

This appeal of the Revenue is directed against the order of the Commissioner of Income Tax (Appeals) – 8, Chennai, dated 29.01.2016 and pertains to assessment year 2011-12.

2. The first issue arises for consideration is addition of ₹15,40,000/-.

3. Shri A.V. Sreekanth, the Ld. Departmental Representative, submitted that there were cash deposits of ₹36,48,500/- in the Savings Bank account maintained by the assessee with State Bank of India, T. Nagar Branch. The Assessing Officer called upon the assessee to explain the source for making such deposits. The assessee explained before the Assessing Officer that he and his wife earned agricultural income on an average of ₹35,00,000/- each year for more than 5 to 6 years. According to the Ld. D.R., the assessee filed copies of the documents to prove the holding of agricultural land apart from a certificate from Village Administrative Officer. The Assessing Officer rejected the claim of the assessee on the ground that the assessee could not explain each entry in the bank passbook. The Ld. D.R. submitted that he is placing reliance on the observation made by the Assessing Officer and the grounds of appeal filed by the Revenue before this Tribunal.

4. On the contrary, Ms. S. Deepa, the Ld. representative for the assessee, submitted that the assessee and his wife was holding agricultural lands. The copies of the documents are available at pages 90 to 113 of the paper-book filed by the assessee. The assessee has also filed returns of income for the assessment years

2008-09 to 2010-11 at pages 61 to 90 of the paper-book. According to the Ld. representative, the assessee and his wife were holding around 36 acres of land in Vilpatti Village at Kodaikanal. The assessee has also holding ancestral agriculture properties at Kovur Village and Vuyyur village. In view of the above, according to the Ld. representative, the CIT(Appeals) has rightly deleted the addition made by the Assessing Officer to the extent of ₹15,40,000/-.

5. We have considered the rival submissions on either side and perused the relevant material available on record. Admittedly, there were deposits of ₹36,48,500/- in the Savings Bank account maintained by the assessee with State Bank of India, T. Nagar Branch. The Assessing Officer found that the assessee could not explain the source of deposits, therefore, he made an addition of ₹36,48,500/-. The CIT(Appeals) found that the assessee has explained the source to the extent of ₹15,40,000/-. Accordingly, he deleted the same. However, he confirmed the addition of ₹21,08,500/- as unexplained income of the assessee. On perusal of the returns of income for assessment years 2008-09, 2009-10 and 2010-11, it appears the assessee has declared agricultural income of ₹19,25,000/-, ₹20,35,000/- and ₹24,67,490/- respectively. The

CIT(Appeals), after considering the cash flow statement filed by the assessee, found that the net agricultural income available to the assessee was only ₹15,40,000/-. Accordingly, he confirmed the same and sustained the balance amount of ₹21,08,500/-.

6. The fact that the assessee is holding agricultural land at Vilpatti Village at Kodaikanal, Kovur Village and Vuyyur village, etc. are not in dispute. It is also not in dispute that the assessee has returned agricultural income for the assessment years 2008-09, 2009-10 and 2010-11. The CIT(Appeals), after considering the cash flow statement filed by the assessee, found that the assessee had source to the extent of ₹15,40,000/-. Accordingly, he deleted the same. When the assessee was able to explain source of agricultural income and also disclosed agricultural income continuously in the earlier assessment years, the CIT(Appeals) has rightly accepted the net agricultural income shown in the cash flow statement to the extent of ₹15,40,000/- and deleted the same. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

7. The next ground of appeal is with regard to addition of ₹25,00,000/- in respect of loan transactions with M/s Corporate Leisure & Property Development Pvt. Ltd., Bangalore.

8. Shri A.V. Sreekanth, the Ld. Departmental Representative, submitted that the assessee claims to have received a loan of ₹25,00,000/- from M/s Corporate Leisure & Property Development Pvt. Ltd., Bangalore, on 12.01.2011 through State Bank of India account. However, the assessee could not substantiate the receipt of ₹25,00,000/- by producing necessary material evidence. Therefore, the Assessing Officer treated the sum of ₹25,00,000/- as income from other sources under Section 68 of the Income-tax Act, 1961 (in short 'the Act'). The CIT(Appeals), however, found that ₹25,00,000/- was remitted as demand draft on 08.01.2011 and the same was returned through RTGS on 12.01.2011. According to the Ld. D.R., referring to the cash flow statement filed by the assessee, the CIT(Appeals) found that the addition made by the Assessing Officer is not sustainable. According to the Ld. D.R., the assessee has not discharged his onus, therefore, the CIT(Appeals) is not justified in allowing the claim of the assessee.

9. On the contrary, Ms. S. Deepa, the Ld. representative for the assessee, submitted that in fact, the assessee received ₹25,00,000/- from M/s Corporate Leisure & Property Development Pvt. Ltd., Bangalore, towards refund of advance by demand draft on 08.01.2011 by way of RTGS. The same amount was returned back on 12.01.2011. The CIT(Appeals), after reproducing the cash flow statement, cheque number, transaction number, etc., found that the observation made by the Assessing Officer that the assessee has not substantiated the transaction was not correct. Therefore, the CIT(Appeals) has rightly allowed the claim of the assessee.

10. We have considered the rival submissions on either side and perused the relevant material available on record. The fact is that the assessee received ₹25,00,000/- through RTGS on 12.01.2011. Therefore, it is obvious that the assessee has received the cash through demand draft and the same was remitted back by RTGS. In view of the above, this Tribunal is of the considered opinion that it cannot be said that the assessee has not discharged his onus. This Tribunal is of the considered opinion that the assessee has discharged his onus towards credits found in the bank account and therefore, the CIT(Appeals) has rightly found that the addition made

by the Assessing Officer is not sustainable. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

11. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 20th April, 2017 at Chennai.

sd/-

(डि.एस. सुन्दर सिंह)

(D.S. Sunder Singh)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 20th April, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-8, Chennai
4. Principal CIT, Chennai-4, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.