

आय आधिकरण, "बी+आयपीठ, चेन्नई
PELLATE TRIBUNAL 'B' BENCH, CHENNAI

श्री चंद्र पूजारी, लेखा सदस्य एवं श्री धुवुरु आर.एल रेड्डी, न्यायाधिक सदस्य के समक्ष
Before Shri Chandra Poojari, Accountant Member &
Shri Duvvuru RL Reddy, Judicial Member

I.T.A. Nos. 580 & 581/Mds/2017
Assessment Years: 2007-08 & 2008-09

Shri S. Duraipandi,
No. 86, 4th Main Road, Natesan Nagar,
Virugambakkam, Chennai 600 092.

Vs. The Deputy Commissioner of
Income Tax,
Central Circle 3(4),
Chennai 600 034.

[PAN: AEDPD9062N]

(अपीलाथ /Appellant)

(प्रत्यथ/Respondent)

अपीलाथ का ओर से / Appellant by : Shri B. Ramakrishnan, C.A.

प्रत्यथ का ओर से/Respondent by : Shri Murali Mohan, Addl. CIT

सुनवाई का ताराख/ Date of hearing : 01.06.2017

घोषणा का ताराख /Date of Pronouncement : 28.07.2017

आदेश /O R D E R

PER DUVVURU RL REDDY, JUDICIAL MEMBER:

Both the appeals filed by the same assessee are directed against the common order of the Id. Commissioner of Income Tax (Appeals) 19, Chennai dated 21.02.2017 relevant to the assessment years 2007-08 and 2008-09. The main ground raised in both the appeal of the assessee is that without representation from the assessee, the Id. CIT(A) passed ex-parte order, which cannot sustain under the law.

are that the assessee engaged in money lending business. The assessee has filed his return of income on 31.11.2009 for the assessment year 2007-08 admitting total income of ₹.98,070/-. The assessment was completed under section 153A of the Income Tax Act, 1961 [Act+in short] accepting the returned income of the assessee. Similarly, for the assessment year 2008-09, the assessment was completed under section 143(3) of the Act on 31.12.2009 computing the total income of the assessee at ₹.19,78,039/-

3. There was a search under section 132 of the Act in the premises of assessee's associates Shri S. Thalavai Pandiyan and Smt. Jayanthi Krishnamoorthy. Evidences of certain transactions between the assessee and the search parties were found in the course of search. Subsequently, the Investigation Directorate has conducted thorough investigation and submitted its detailed reports of concealment of total amount of ₹.10.19 crores in the hands of the assessee. Thereafter, both the assessments were reopened under section 147 of the Act by serving notice under section 148 of the Act. After considering the submissions of the assessee and discussing various issues, the Assessing Officer has completed the reassessment under section 143(3) r.w.s. 147 of the Act by making addition of ₹.4.90 crores for the assessment year 2007-08 and the balance of ₹.5.29 crores in the assessment year 2008-09.

the matters in appeal before the Id. CIT(A).

Despite giving various opportunities of hearing to the assessee from 11.07.2013 to 20.01.2017, there was no proper representation before the Id. CIT(A). Therefore, by applying the decision in the case of CIT v. Multiplan (India) Pvt. Ltd. 38 ITD 320 (Del), the Id. CIT(A) dismissed both the appeals filed by the assessee.

5. On being aggrieved, the assessee is in appeal before the Tribunal. By referring to the grounds of appeal, the Id. Counsel for the assessee has submitted that the Id. CIT(A) has not adjudicated the issues raised before him on merits and prayed that necessary directions may be given to the Id. CIT(A) to adjudicate the issue by giving one more opportunity of being heard to the assessee submit his case before the Id. CIT(A).

6. On the other hand, the Id. DR has submitted that the assessee was given sufficient opportunities to present his case before the Id. CIT(A) and no reasonable cause was given for non-appearance.

7. We have heard both sides, perused the materials available on record and gone through the orders of authorities below. It is evident from the appellate order that the Id. CIT(A) has given sufficient opportunity to the assessee to present his case before the Id. CIT(A), but not availed of by the assessee. At the same time, we find that the Id. CIT(A) has not adjudicated

sssee before him on merits, which is found to be unfair. Under the above facts and circumstances, we direct the Id. CIT(A) to adjudicate the grounds raised in both the appeals on merits based on the materials available on record with six months from the date of order this order, whether or not the assessee present his case before the Id. CIT(A). The assessee is also directed not to seek adjournment for just cause and advised to cooperate with the department. Thus, both the appeals filed by the assessee are allowed for statistical purposes.

8. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on the 28th July, 2017 at Chennai.

Sd/-
(CHANDRA POOJARI)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, the 28.07.2017

Vm/-

आदेश क ातलम अत/Copy to: 1. अपीलाथ/ Appellant, 2. ायथ/
Respondent, 3. आयकर आयुत (अपील)/CIT(A), 4. आयकर आयुत/CIT,
5. ाभागीय ातलमध/DR & 6. गाडफाईल/GF.