

आयकर अपीलीय अधिकरण, C/'SMC' न्यायपीठ, चेन्नई ।

IN THE INCOME TAX APPELLATE TRIBUNAL
C/"SMC" BENCH, CHENNAI

श्री. चंद्र पूजारी लेखा सदस्य, के समक्ष ।

BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER

I.T.A.No.2277/Mds./2017

(Assessment Year : 2013-14)

Smt.K.Bhanumathi,
124,Murthi Villa,
P.S.sivaswamy Salai,
Mylapore,Chennai 600 004.
PAN AAFPB 9194 H
(अपीलार्थी /Appellant)

The ACIT,
Vs. Non-corporate circle-1,
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Mr.A.S.Sriraman,Advocate
प्रत्यर्थी की ओर से/Respondent by : Mr.B.Sagadevan, JCIT, D.R

सुनवाई की तारीख/ Date of hearing : 04.12.2017
घोषणा की तारीख /Date of Pronouncement : 05.12.2017

आदेश / O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal is filed by the assessee, aggrieved by the order of the Learned Commissioner of Income Tax(A)-2, Chennai dated 27.07.2017 pertaining to assessment year 2013-14.

2. The assessee has raised the following grounds for adjudication.

1. The order of The Commissioner of Income Tax (Appeals) 2, Chennai dated 27.07.2017 in I.T.A.No.246/CIT(A)-2/2015-16 for the above mentioned Assessment Year is contrary to law, facts, and in the circumstances of the case.
2. The CIT (Appeals) erred in sustaining the completion of assessment u/s.144 of the Act after rejecting the financial statements/accounts furnished for the purpose of estimating the profession income at 8% of the total receipts while rejecting the claim of expenses in the computation of taxable total income without assigning proper reasons and justification.
3. The CIT (Appeals) failed to appreciate that the reasons given for the estimated addition to impose tax were wholly unjustified and ought to have appreciated that the findings given in relation thereto in the impugned order were wrong, erroneous, unjustified, incorrect and not sustainable in law.
4. The CIT (Appeals) failed to appreciate that having not questioned the genuineness of the expenses incurred in the profession pursued by the appellant, the attempt to make estimated addition should be considered as bad in law.
5. The CIT (Appeals) failed to appreciate that there was no wrong statement of facts for recording the conclusions reached both in the assessment order and in the impugned order and ought to have appreciated that the misreading of financial statements/accounts would vitiate the said finding.
6. The CIT (Appeals) failed to appreciate that the detailed written submissions filed on 24.07.2017 was completely overlooked and brushed aside in recording the wrong findings in para 5 of the impugned order with a view to sustain the estimated addition of Rs.6,61,557/-.

7. The CIT (Appeals) failed to appreciate that there was no proper opportunity given before passing of the impugned order and any order passed in violation of the principles natural justice would be nullity in law.

2.1 The main grievance of the assessee in the above grounds is that Ld.CIT(A) erred in sustaining the estimation of income and thereafter estimating the income at 8% of the gross receipts.

3. The brief facts of the case are that the assessee is an individual, engaged in legal profession and declared gross receipt of ₹1 lakh from the legal profession and claimed loss of ₹5,99,852/-. The Id. Assessing Officer while examining the records observed that the gross receipts was ₹1 lakh as per Form 26AS and however, there was another ₹1,30,000/- as revealed by list of receipts provided by the assessee. Thus, the AO estimate the gross receipts at ₹2,30,000/- and estimated the income of assessee at 8% of the gross receipts by invoking the provisions of the section 44AD of the Act. Thus, he overlooked the loss claimed by the assessee at ₹5,99,852/- and computed the income from legal profession at ₹18,400/-. Thus, Id. Assessing Officer made total addition to the income of assessee at ₹6,51,557/-. Aggrieved by the order of Id. Assessing Officer, the

assessee carried the appeal before the Ld.CIT(A). On appeal, Ld.CIT(A) upheld the order of Id. Assessing Officer. Against the order of Ld.CIT(A), now the assessee is in appeal before us.

4. I have heard both the parties and perused the material on record. The assessee originally declared the income from profession as below:-

Excess of expenditure over income		6,43,157
ADD: Inadmissible expenses:		
Car Maintenance	3,516	
Electricity charges	8,947	
Driver's salary	19,200	
Depreciation	<u>14,546</u>	46,208
LESS: Income chargeable under separate head:-		
Interest on SB A/c with banks		<u>2,903</u>
		<u>(-)5,99,852</u>

The AO estimated the gross receipts from ₹2,30,000/- from the legal profession and he considered the income at ₹18,400/- and finally, he added ₹6,51,557/- to the income of assessee, which is as follows:-

Particulars	Amount (₹)
Total income as admitted by the assessee	37,33,796/-
Add: estimated profit as discussed above	6,51,557/-
Total Assessed income	43,95,350/-
Demand payable	2,20,770/-

4.1 In my opinion, the above computation is not correct. However, the estimation of gross receipts at ₹2,30,000/- from legal profession is justified as it is based on the evidences furnished by the assessee. Further, estimating the income at 8% of the gross receipts by invoking the provisions of the section 44AD is also justified as the assessee has not maintained proper books of accounts. However, the computation of income to be read as follows:-

Particulars	Amount (₹)
income house property	45,42,372
Income from profession	18,400
Total (A)	45,60,772
LESS: Deduction Chapter VIA	2,20,770/-
u/s.80C : 16,000	
u/s.80G <u>1,96,516</u>	
Total(B) <u>2,12,516</u>	
(C) [(A) - (B)] Taxable income	43,48,256

Thus, the assessee would get a relief of ₹47,094/-. It is on account of wrong computation of income by the Id. Assessing Officer.

Accordingly, the grounds raised by the assessee in her appeal are partly allowed.

5. In the result, the appeal of assessee is partly allowed.

Order pronounced on 05th December, 2017.

Sd/-

(चंद्र पूजारी)

(CHANDRA POOJARI)

लेखा सदस्य /ACCOUNTANT MEMBER

Chennai,

Dated the 05th December, 2017.

K s sundaram.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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