

आयकर अपील अथवा अधकरण, "ए" बेंच, चेन्नई  
**IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI**  
श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री धुवुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष  
**Before Shri A. Mohan Alankamony, Accountant Member &  
Shri Duvvuru RL Reddy, Judicial Member**

आयकर अपील सं./I.T.A.No.140/Mds/2017  
प्रधान वर्ष **Assessment Year:2010-11**

Smt. Sumitra Kumari,  
No. 411, Mint Street, Sowcarpet,  
Chennai 600 079.  
**[PAN: AKTPK3976A]**

The Income Tax Officer,  
Vs. Non Corporate Ward 6(3),  
Chennai.

**(Appellant)**

**(Respondent)**

अपीलाथक क ओर से / Appellant by : Shri S. Sridhar, Advocate  
प्रत्येक क ओर से/Respondent by : Shri S. Suresh Kumar, Addl. CIT  
सुनवाई क तारख / Date of hearing : 02.01.2018  
घोषणा क तारख /Date of Pronouncement : 04.01.2018

**आदेश / O R D E R**

**PER DUVVURU RL REDDY, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 8, Chennai dated 26.07.2017 relevant to the assessment year 2014-15. Besides challenging the assessment made under section 144 r.w.s. 147 of the Income Tax Act, 1961 [Act+in short], the assessee also disputed against confirmation of addition of .71,80,000/- made under section 69B of the Act.

2. Brief facts of the case are that the assessee is an individual and not filed any return of income in respect of the assessment year 2010-11. As per survey report dated 22.08.2012 of the Investigation Wing, Chennai in the case of Shri D. Suryakanth alias [PAN: APDPS7934M], it was reported that Smt. Sumitra Kumari, wife of Shri Suryakanth has purchased two flats at Heera Lifestyle, Kerala from Shri A. Lalichan [PAN: AABPL7067R] for a consideration of ₹.71,80,000/- during the financial year 2009-10 relevant to the assessment year 2010-11. Since the assessee has not filed return of income and to bring the income so suppressed to tax, a notice under section 148 of the Act was issued. Subsequently, notice under section 142(1) of the Act dated 19.06.2014 was also issued. Since the assessee has not shown any response, a letter was issued on 18.08.2014 directing the assessee to comply with the above notices. However, neither the assessee filed return of income nor responded to the various notices issued on the assessee. Thus, the Assessing Officer proceeded to complete the assessment based on the survey report received from the Investigation Wing, the assessment was completed under section 144 r.w.s. 147 of the Act by making addition towards unexplained investment under section 69B of the Act.

3. The assessee carried the matter in appeal before the Id. CIT(A) and challenged assessment made under section 144 r.w.s. 147 of the Act as well as addition towards unexplained investments under section 69B of the Act.

The Id. CIT(A) posted the appeal eight times for hearing. Neither the assessee nor the AR of the assessee appeared for appellate proceedings. By considering the materials available on record, the Id. CIT(A) decided the appeal on merits and sustained the addition made under section 69B of the Act while confirming the assessment order.

4. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the order of the assessment under consideration was passed out of time, invalid, passed without jurisdiction and not sustainable both on facts and in law. It was also submitted that without assigning proper reasons and justification, the Id. CIT(A) erred in sustaining the addition of ₹.71,80,000/- and prayed that the addition should be deleted. On the other hand, the Id. DR strongly supported the orders of authorities below.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case, admittedly, the assessee has not filed any return of income for the assessment year 2010-11. Despite service of various notices, the assessee has not complied with and filed return of income for the assessment year 2010-11. Based on the survey report received from the Investigation Wing, the Assessing Officer issued notice under section 148 of the Act dated to the assessee to file the return of income. Further, the Assessing Officer also

issued notice under section 142(1) of the Act on 19.05.2014, which is well within the time provided under the Income Tax Act. Moreover, as per the survey report, a survey under section 133A of the Act was conducted in the case of Shri A. Lalichan, Chennai on 05.06.2012. As per the impounded materials collected from the premises of Shri Lalichan, it was found that he sold four flats to Shri D. Suryakanth and his family members at Heera Lifestyle, Kerala for a consideration of 1,45,60,000/-, which is over and above the registered value of 64,40,000/- as per the sale deeds. Thus, a survey under section 133A of the Act was conducted in the business premises of Shri Suryakanth on 07.06.2012. At the time of survey proceedings, Shri Suryakanth has admitted 40 lakhs as his unexplained investment in the purchase of 4 flats. However, on verification of bank statement during the post survey investigation revealed that there were no cash withdrawals during the relevant financial year to correlate the cash payments made to Shri Lalichan for the purchase of flats. During the post survey proceedings in the case of Shri A Lalichan, a chart showing the list of buyers, registered value and additional consideration received from the buyers were submitted in order to work out the sale proceeds received from the venture at Heera Lifestyle, Kerala and as per the above details, two flats were sold to the assessee. Since the assessee has not filed any return of income, the Assessing Officer believed that there is income escaped assessment in the hands of the assessee. Therefore, the Assessing Officer

validly issued notice under section 148 of the Act to the assessee to file the return of income to bring the income so suppressed to tax. Thus, we are of the considered opinion that the Id. CIT(A) rightly confirmed the assessment passed under section 144 r.w.s. 147 of the Act.

6. With regard to the confirmation of addition, it is an admitted fact that the assessee has not at all cooperated with the Department either filing of return of income or furnishing complete particulars of income as called for under section 142(1) of the Act or even furnished any details either before the Id. CIT(A) or even before the Tribunal. Based on the survey report on the conduct of survey under section 133A of the Act in the business premises of Shri Suryakanth, husband of the assessee on 07.06.2012, the unexplained investment under section 69B of the Act was determined in the hands of the assessee by the Assessing Officer and confirmed by the Id. CIT(A). Since the addition was made in the hands of the assessee based on the survey report of other assessee(s) and in the absence of filing of return of income and complete particulars for assessment, we direct the assessee to file the return of income for the assessment year 2010-11 as well as furnish complete particulars as sought for under section 142(1) of the Act before the Assessing Officer. The Assessing Officer is directed to examine the particulars of the assessee and decide the issue afresh. In case, the assessee fails to furnish complete particulars within three months from the

date of this order, then the assessment passed under section 144 r.w.s. 147 of the Act stands sustained. Accordingly, the ground raised by the assessee is partly allowed for statistical purposes.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 04<sup>th</sup> January, 2018 at Chennai.

Sd/-  
(A.MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Sd/-  
(DUVVURU RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, 04.01.2018

Vm/-

आदेश क० प्रतिलिपि अपेक्षित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. वित्तीय प्रशासक/DR & 6. गाडाफाईल/GF.