

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री अब्राहम पी. जॉर्ज, लेखासदस्य एवं
श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष

BEFORE SHRI ABRAHAM P.GEORGE, ACCOUNTANT MEMBER AND
SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं./ITA No.1812/Mds/2017

निर्धारण वर्ष /Assessment Year: 2009-10

Shri K.Chandrasekaran,
No.25 & 26, Sterling Avenue,
Sakthi Nagar, Porur,
Chennai-600 034.

Vs. The Income Tax Officer,
Corporate Ward-6(2),
Aayakar Bhavan,
No.121, M.G.Road,
Chennai-600 034.

[PAN: AAGPC 3161 N]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	None
प्रत्यर्थी की ओर से /Respondent by	:	Mr.M.Palanichamy, JCIT
सुनवाई की तारीख/Date of Hearing	:	12.10.2017
घोषणा की तारीख /Date of Pronouncement	:	12.10.2017

आदेश / ORDER

PER GEORGE MATHAN, JUDICIAL MEMBER:

ITA No.1812/Mds/2017 is an appeal filed by the assessee against the Order of the Commissioner of Income Tax (Appeals)-10, Chennai, in ITA No.9/2012-13/CIT(A)-10 dated 12.05.2017 for the AY 2009-10.

2. Mr.M.Palanichamy, JCIT, represented on behalf of the Revenue and None represented on behalf of the assessee.

3. It was submitted by the Ld.DR that the assessee is an individual. In the course of the assessment, it was noticed that the assessee has claimed benefit of Sec.80C in respect of the re-payment of the housing loan principle as also deduction u/s.24(b) of the Act. It was a submission that the assessee had purchased the property in the name of the assessee's son and the EMIs for the loan re-payment were debited from the assessee's account. The loan sanctioned from Cholamandalam DBS was to the assessee along with the assessee's son, assessee's wife as co-applicants. It was a submission that during the subsequent year when the assessee's son became major, the son has shown the said property as his house property and had admitted rental income from the said property. It was a submission that the property was purchased through loan from HDFC. It was a submission that the loan from Cholamandalam DBS was also taken not for the purpose of construction or purchase or extension of the existing house but was for business expansion. It was a submission that consequently the AO had disallowed the claim of deduction u/s.80C and the claim u/s.24(b) of the Act. It was a submission that penalty proceedings were initiated to which the assessee had submitted that the assessee had purchased the property in the name of his son and the EMIs for the loan re-payment debited from the assessee's account. It was a submission that the assessee, thus, wrongly claimed deduction u/s.24(b) and 80C by giving inaccurate particulars which lead to concealment of income. It was a submission that the explanation offered by the assessee was not bonafide and consequently levied penalty. It was a submission

that on appeal, the Ld.CIT(A) also confirmed the penalty levied. It was a submission that the order of the Ld.CIT(A) was liable to be confirmed.

4. We have considered the rival submissions. Admittedly, the assessee has claimed the deduction u/s.80C in respect of the property purchased by the assessee in the name of his son and also claimed deduction u/s.24(b) of the Act. A perusal of the penalty order clearly shows that the AO says that the explanation offered by the assessee is not bonafide. Nowhere is it being said that the assessee's explanation is false or improbable. In fact, the loan taken from Cholamandalam DBS under the head business expansion of Rs.75.00 lakhs has been used for closing the loan taken from the HDFC for purchase of the house and to the assessee, but this is not in the year under dispute. This loan has been taken on 31.01.2008. Thus, the loan taken from Cholamandalam DBS has been, in fact, used in the subsequent year to clear off his son's loan with HDFC and to re-pay the amount invested by the father, as the assessee's son, in whose name the property has been purchased, had become a major and was filing his individual return by showing income from house property. Thus, it cannot be said that the assessee has tried to conceal the particulars of his income or furnished inaccurate particulars. In any event, the explanation filed by the assessee admittedly, has not been found to be false or improbable. This being so, we are of the view that this is not a fit case for levy of penalty and consequently, cancelled the same. The penalty as levied by the AO and as confirmed by the Ld.CIT(A) u/s.271(1)(c) stands deleted.

5. In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the Open Court on October 12, 2017, at Chennai.

Sd/-

(अब्राहम पी. जॉर्ज)

(ABRAHAM P GEORGE)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: October 12, 2017.

TLN

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