

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.1225/CHNY/2019

(निर्धारण वर्ष / Assessment Year: 2009-10)

Shri P. Rajamanickam,
No.6, Sellappa Gounder Thottam,
Koneripatti Ex.No.11, Rasipuram
Taluk, Namakkal District – 637 408.

Vs **The Income Tax Officer,**
Ward-3,
Namakkal.

PAN: AHHPR9659Q

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : None

प्रत्यर्थी की ओर से/Respondent by : Shri AR.V. Sreenivasan, JCIT

सुनवाई की तारीख/Date of hearing : 08.07.2019

घोषणा की तारीख /Date of Pronouncement : 03.10.2019

आदेश/ O R D E R

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals), Salem in ITA No. 111/2017-18 dated 08.03.2019 for the assessment year 2009-10.

2. Shri P. Rajamanickam, the assessee, is an individual carrying on the business in the names of M/s. P.R.M. Petroleum Agencies and M/s. P.R.M. Tyres. While making the assessment for

the assessment year 2009-10, the AO inter-alia, made addition on account of Short Term Capital Gain (STCG) on sale of car. Further, the assessee sold a property and claimed deduction U/s.54F. The AO required to furnish full and complete details of construction amount. Since, the assessee failed to furnish, the AO held that the assessee has not constructed any residential house during the eligible period and therefore, the AO refused to allow the deduction claim U/s.54F at Rs.27,90,653/-. Aggrieved against that order, the assessee filed an appeal before the CIT(A) and the Id.CIT(A) dismissed the appeal. Aggrieved against that order, the assessee filed this appeal.

3. While the case was taken up for hearing, none appeared from the assessee's side. The Id.DR submitted that it is seen from the order of the Id.CIT(A) that none appeared from the assessee's side and hence the Id.CIT(A) disposed the appeal based on the materials on record. Since, the assessee has not appeared before this Hon'ble Tribunal, the order of the Id.CIT(A) may be confirmed.

4. We heard the Id.DR and gone through the order of the Id.CIT(A). The Id.CIT(A) has mentioned that the appellant has filed written submission on 06.03.2019 and simply stated that the same

may be taken on record and the case be decided accordingly. Therefore, the Id.CIT(A) proceeded to decide the appeal without any opportunity to the assessee. Since, the appeal is decided without hearing the assessee, we deem it fit to remit the issues back to the Id.CIT(A) for deciding the case on merit after affording effective opportunity to the assessee. While doing so, the CIT(A) may, if he thinks it fit, require the AO concerned to make appropriate enquiry as per sub-section 4 of Section 250 and after furnishing a copy of such report to the assessee and affording effective opportunity, may decide the issues in accordance with law.

5. In the result, the assessee's appeal is treated as partly allowed for statistical purpose.

Order pronounced in the court on 3rd October, 2019 at Chennai.

Sd/-

(धुव्वुरु आर एल रेड्डी)

(Duvvuru R.L Reddy)

न्यायिक सदस्य/Judicial Member

Sd/-

(एस जयरामन)

(S. Jayaraman)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 3rd October, 2019

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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