

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI**

श्री जॉर्ज माथन, न्यायिक सदस्य एवं श्री
श्री एस. जयरामन, □□□□ □□□□□ □□□□□□□□

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2567/Chny/2017
निर्धारण वर्ष /Assessment Year: 2010-11

Shri Parth S. Shah
No.411/8, Mint Street,
Sowcarpet,
Chennai – 600 079.
[PAN: BWLPS 0078J]

Vs. The Income Tax Officer
Non Corporate Ward-5(4)
Chennai – 600 006

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri S. Sridhar, Advocate
: Shri AR.V.Sreenivasan, JCIT,
DR

सुनवाई की तारीख/Date of Hearing

: 13.11.2019

घोषणा की तारीख /Date of Pronouncement

: 13.11.2019

आदेश / O R D E R

PER GEORGE MATHAN, JUDICIAL MEMBER:

This appeal is filed by the Assessee against the order of the learned
Commissioner of Income Tax (Appeals)-5, Chennai in appeal No.ITA
No.33/CIT(A)-5/2016-17 dated 20.09.2017 for the Assessment Year 2010-11.

2. Shri S. Sridhar, Advocate represented on behalf of the Assessee and Shri AR.V. Sreenivasan, JCIT represented on behalf of the Revenue.

3. It was submitted by the learned Authorized Representative that the issue in the appeal was against the action of the learned Commissioner of Income Tax (Appeals) in confirming the addition on account of the alleged money payment of Rs.35,90,000/- to Shri Lalichan towards purchase of flat. It was submitted by the learned Authorized Representative that similar addition has been made in the case of assessee's mother, Smt. Sumitra Kumari, in whose case the Tribunal in I.T.A. No.140/Mds/2017 vide order dated 04.01.2018 for the A.Y 2010-11, wherein the Co-ordinated Bench of this Tribunal had held as follows:

"6. With regard to the confirmation of addition, it is an admitted fact that the assessee has not at all co-operated 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 learned 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 learned 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 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."

4. In reply the learned Departmental Representative submitted that he had no objection if the issues were restored to the file of the Assessing Officer for re-adjudication afresh.

5. We have considered the rival submission and perused the materials available on record.

6. As it is noticed that the issue raised in assessee's appeal is identical to the facts decided by the Co-ordinate Bench of this Tribunal in assessee's mother's case referred to supra, and the issue has already been adjudicated, respectfully following the decision of Co-ordinate Bench of Chennai Tribunal referred to supra, the issue raised in the appeal of the assessee is restored to the file of Assessing Officer for re-adjudication.

7. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 13th November, 2019 in Chennai.

Sd/-

(श्री एस. जयरामन)
(S. JAYARAMAN)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

()
(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 13th November, 2019.

IA, Sr. PS

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