

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH, CHENNAI
श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री रमित कोचर, लेखा सदस्य के समक्ष
BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.1972/Chny/2019

(निर्धारण वर्ष / Assessment Year: 2016-17)

Shri P.S. Siva,
C/o. S. Sendamarai Kannan,
Advocate,
104, 22nd Street, Ashtalakshmi
Nagar, Alappakkam,
Chennai – 600 116.

Vs The Income Tax Officer,
Non-Corporate Ward – 21(4),
Chennai – 600 034.

PAN: ATJPS9948K

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri S. Sendamarai Kannan, Advocate

प्रत्यर्थी की ओर से/Respondent by : Ms. R. Anitha, JCIT

सुनवाई की तारीख/Date of hearing : 22.01.2020

घोषणा की तारीख /Date of Pronouncement : 24.02.2020

आदेश / O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

The appeal of the assessee is directed against the order of Commissioner of Income Tax (Appeals) – 9, Chennai dated 10.05.2019 and pertains to the assessment year 2016-17.

2. Shri S. Sendamarai Kannan, the Ld. Counsel for the assessee submitted that the only issue arises for consideration is addition of

Rs.4 lakhs. According to the Ld. counsel, the assessee is a Manager in the State Bank of India. He deposited Rs.25 lakhs in his bank account for purchasing a residential house. The Assessing Officer in fact accepted the source for deposit of Rs.21 lakhs and the dispute is with regard to Rs.4 lakhs. According to the Ld.counsel, Rs.4 lakhs was received on sale of the gold jewellery belonging to his wife. According to the Ld.counsel, the assessee has sold 160 grams of gold jewellery which belongs to his wife to M/s. ARJ Jewellery, Madurai for a total consideration of Rs.4 lakhs which was used for deposit in the bank account. However the contention of the assessee was not accepted by the Assessing Officer on the ground that the deposit was made on 08.02.2016 whereas the date of sale was 10.02.2016. In other words, the deposit was made two days before the date of the sale of jewellery. Referring to an affidavit said to be sworn by one Shri T. Annadurai, Proprietor of M/s. ARJ Jewellery, Madurai, the Ld.counsel submitted that two days before the jeweler took possession of the jewels belonging to the assessee's wife, he gave cash. However the receipt was issued when the assessee's wife asks for receipt on 10.02.2016 over telephone. This piece of evidence clearly indicates that Rs.4 lakhs was received on sale of the jewels which belongs to his wife. Therefore there cannot be any addition.

3. On the contrary, Ms.R. Anitha, the Ld. Departmental Representative submitted that when the assessee was in Chennai, it is not known why they have all the way travelled to Madurai for sale of jewellery. Moreover the assessee is taking contradictory stand before the Assessing Officer and the CIT(A). The Ld.DR further submitted that the deposit was admittedly made in bank account on 08.02.2016. However, the jewelers issued the receipt on 10.02.2016. Therefore the money deposited on 08.02.2016 may not be the sale proceeds of the jewels which said to be belonging to the assessee's wife.

4. We have considered the rival submissions on either side and perused the material available on record. The first contention of the Ld.DR is that the assessee could not have travelled to Madurai for sale of the jewellery when they are residing in Chennai. This Tribunal is unable to accept this contention of the Ld.DR. In a democratic country like India, it is for the individual citizen to travel anywhere in the country and to sell their property or purchase their property. In this case, the assessee or his wife decided to sell their jewellery to a jeweler at Madurai. The Department cannot doubt the genuineness of the jeweler merely because it was sold to a jeweler at Madurai. Now coming to the date of deposit admittedly the funds were deposited on

08.02.2016 in the bank account. The sale receipt shows that it was issued on 10.02.2016. Now to clarify the factual position, one Shri T. Annadurai, the Proprietor of M/s. ARJ Jewellery has filed an affidavit claiming that one Smt. Sivakamasundari, the wife of the present assessee had come to his shop with twenty sovereigns of gold jewellery consisting of a long chain, ten bangles and a necklace. He tested the jewels brought by Smt. Sivakamasundari for purity and on satisfaction of the same he took possession of the jewellery and paid cash of Rs.4 lakhs. Again on 10.02.2016 the said Shri T. Annadurai claims that Smt. Sivakamasundari telephoned to him and asked for the receipt for sale of the jewellery which was issued on 10.02.2016. If this explanation is correct then there may be a justification for deposit of money on 08.02.2016 to the extent of Rs.4 lakhs. This affidavit is filed before this Tribunal by the assessee. Therefore, it needs to be examined by the Assessing Officer. Accordingly the orders of both the authorities below are set aside and the addition to the extent of Rs.4 lakhs is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the issue afresh in the light of the affidavit filed by the assessee from Shri T. Annadurai and thereafter decide the issue afresh in accordance with law after giving a reasonable opportunity to the assessee.

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

Order pronounced in the court on 24th February, 2020 at Chennai.

Sd/-
(रमित कोचर)
(Ramit Kochar)
लेखा सदस्य /Accountant Member

Sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 24th February, 2020.

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 |