

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

श्री जॉर्ज माथन, न्यायिक सदस्य एवं श्री इंटूरी रामा राव, लेखा सदस्य के समक्ष
**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.3352 & 3355/Chny/2019
निर्धारण वर्ष /Assessment Years: 2007-08 & 2013-14

Shri G.K. Reddy,
T-27, 12th Street, Anna Nagar,
Chennai – 600 040.

Vs. The Dy. Commissioner of
Income Tax,
Corporate Circle-2(1),
Chennai.

[PAN: AAQPK 5707L]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri S.Lakshminarasimhan, C.A
प्रत्यर्थी की ओर से /Respondent by : Ms. R. Anitha, JCIT
सुनवाई की तारीख/Date of Hearing : 03.03.2020
घोषणा की तारीख /Date of pronouncement : 04.03.2020

आदेश / O R D E R

PER INTURI RAMA RAO, ACCOUNTANT MEMBER:

Both the appeals filed by the assessee directed against the Order of the learned Commissioner of Income Tax (Appeals)-6, Chennai (hereinafter called as 'CIT(A)') dated 31.10.2019 for the assessment years 2007-08 & 2013-14.

ITA No.3352/Chny/2019 for A.Y 2007-08:

2. The brief facts of the case are as under:

The appellant is an individual. The appellant has filed the return of income on 31.07.2007 for the A.Y 2007-08 disclosing total income of Rs. 10,32,080/-. There was no scrutiny proceedings against this return of income. Subsequently, based on information received from DDI (Inv.), Unit-III(2), Chennai that the appellant had purchased land admeasuring 7 acres and 11 acres located at Hafeezpet Village, Serilingampally Mandal, R.R. District, Hyderabad for a consideration of Rs. 96,25,000/- vide sale deed No. 24498/06 and in Survey No.56 for a value of Rs. 1,77,50,000/- registered vide sale deed No.24497/06 respectively on 02.12.2006. The total value paid for the above properties is Rs. 2,99,76,100/- including registration charges of Rs. 26,01,100/-. From the report it was further ascertained that major portion for the purchase of property of the amount was paid by way of cash and a deposit of Rs. 29,99,000/- and Rs. 19,00,000/- was made in assessee's account by way of cash and various cash payments have been made by the assessee to various persons on various dates for which the assessee had not furnished any proof for the source. These transactions were not revealed to the department by the assessee in his return of income filed for the A.Y 2007-08 on 31.07.2007.

3. Accordingly, a notice u/s. 148 of the Act was issued on 10.02.2015. In response to the said notice, the assessee vide letter dated 11.03.2015 stated that the original return of income filed be treated as return in response to notice of s. 148 of the Act. Subsequently, the assessment was completed by DCIT, Corporate Circlr-2(1), Chennai (hereinafter called 'AO') by making addition of Rs. 35,50,000/- on account of inability the assessee to explain the source for the following payments:

Date	Amount	Pynt By	Bank
09/09/2006	10,00,000	Ch.No.494753	GKE, FB, Hyd
18/09/2006	10,00,000	Cash	
18/09/2006	5,00,000	Ch. No.494756	GKE, FB, Hyd
07/12/2006	10,00,000	Ch. No.494767	GKE, FB, Hyd
30/04/2008	50,000	DD	GKE, FB, Hyd

4. The AO also made addition on account of unexplained cash deposits of Rs. 23,99,000/-

5. Being aggrieved by the above assessment, an appeal was preferred before Id. CIT(A), who vide impugned order dismissed the appeal without condoning the delay of 05 days in filing the appeal. Being aggrieved by the order of Ld. CIT(A) , the appellant is in appeal before us in the present appeal.

6. The Id. AR submitted before us that though we have filed petition for condonation of delay was filed before Ld. CIT(A) praying condonation of delay. It is contended before us that the Ld. CIT(A) ought to have appreciated that the delay of 5 days had occurred on account of ill-health

of the Managing Director of the appellant-company. On the other hand, the Ld. Sr. DR opposed above submission.

7. We heard the rival submissions and perused material available on record. The appeal before Ld. CIT(A) was filed with delay of five days. The appellant had filed petition praying for condonation of delay on account of ill-health of the Managing Director of the appellant-company. In our considered opinion, it constitute reasonable cause for delay in filing the appeal, the Ld. CIT(A) ought to have condoned the delay of five days in filing the appeal, we restore the matter back to the file of Ld. CIT(A) condoning the delay of five days with the direction to dispose the appeal on merits.

8. In the result, the appeal filed by the assessee in ITA No.3352/Chny/2019 for A.Y 2007-08 is partly allowed for statistical purpose.

ITA No.3355/Chny/2019 for A.Y 2013-14:

9. The appellant is an individual. The appellant has filed the return of income on 23.11.2013 for the A.Y 2013-14 disclosing total income of Rs. 9,63,040/-. Against the said return of income, the assessment was completed by ACIT, Corporate Circle-2(1), Chennai vide order dated 30.03.2016 at a total income of Rs. 56,47,710/-. While doing so, the AO

has made an addition of Rs. 15,98,000/- as unexplained cash deposits in bank account and also made addition of sale proceeds of agricultural land on the ground that it is not proved that the land that was sold was agricultural land. The AO also made addition of Rs. 2,23,000/- on account of unexplained sources for credit card payment of Rs. 2,23,000/.

10. Being aggrieved by the above assessment, an appeal was preferred before Id. CIT(A). The appeal was posted for hearing on 15.10.2019 vide hearing notice dated 01.10.2019 by Ld. CIT(A). Again, the matter was adjourned on 21.10.2019 calling upon the appellant to furnish one full set copy of e-appeal filed and with the noting that it was a final opportunity and in the event of non compliance the appeal would be decided based on the documents available on record. On the next date of hearing on 21.10.2019, no appearance was caused therefore, the Ld. CIT(A) had proceeded to dismiss the appeal exparte for non rectification of the defects such as for non-enclosing of notice of demand etc. Being aggrieved by the order of Ld. CIT(A) , the appellant is in appeal before us in the present appeal.

11. From the perusal of the impugned order, it is very clear that the Ld. CIT(A) had not granted reasonable opportunity to comply with the defects notice therefore, we are of the considered opinion that the matter should go back to the file of Ld. CIT(A) for fresh adjudication in

accordance with law after affording a reasonable opportunity being heard to the appellant.

12. In the result, the appeal filed by the assessee in ITA No.3355/Chny/2019 for A.Y 2013-14 is partly allowed for statistical purpose.

13. In the result, both the appeals filed by the assessee are partly allowed for statistical purpose.

Order pronounced on the 04th day of March, 2020 in Chennai.

Sd/-
(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

Sd/-

(इंटूरी रामा राव)

(INTURI RAMA RAO)

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai, दिनांक/Dated: 04th March, 2020.

EDN, Sr. P.S

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