

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

श्री जॉर्ज माथन, न्यायिक सदस्यएवंश्री एस जयरामन, लेखा सदस्य केसमक्ष

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

आयकर अपील सं/.I.T.A. Nos. 2348 & 2349/Chny/2019

निर्धारण वर्ष/Assessment Years : 2016-17

Shri. Gurusamy Ramamurthy,
No. 6, Brindhavanam,
Pondicherry – 605 011.

The Income Tax Officer,
Vs. Non-Corporate Ward 12(2),
Chennai.

[PAN: AABHG 6513K]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. G. Baskar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Ms. R. Anita, JCIT

सुनवाईकीतारीख/Date of Hearing

: 09.12.2019

घोषणाकीतारीख/Date of Pronouncement

: 04.03.2020

आदेश/ ORDER

PER S. JAYARAMAN, ACCOUNTANT MEMBER :

The assessee filed these appeals against the orders of Commissioner of Income Tax (Appeals)-Puducherry, in ITA Nos. 109&112/CIT(A)-PDY/2018-19 dated 26.06.2019 for the assessment year 2016-17, respectively.

2. M/s. Gurusamy Ramamurthy, the assessee, an HUF filed its return for assessment year 2016-17 on 25.07.2016 admitting the total income at Rs. 2,66,650/-. While making the assessment, the Assessing Officer rejected the assessee's agricultural income claim to the extent of Rs. 10 lakhs for want of details/evidences and completed the assessment, which the assessee itself accepted by its letter dated 04.12.2018. Subsequently, the Assessing Officer issued notice u/s. 247 r.w.s 271(1)(c) of the Act and after considering the assessee's reply, levied penalty u/s. 271(1)(c) of the Act. Aggrieved, the assessee filed appeals against both the orders before the CIT(A). The CIT(A) dismissed the appeals. Aggrieved against those orders, the above appeals were filed by the assessee.

3. On the quantum appeal, the Ld. AR submitted that the Ld. CIT(A) erred in confirming the addition made by the AO without adverting the evidences furnished by the assessee from Shri. Chandrakesavan, by way of confirmation letters dated 29.10.2015 (2nos.) and 05.01.2016, the certificates issued by the Village Administrative Officer evidencing the ownership of agricultural land and the availability of casurina in those lands etc. Therefore, he prayed that the addition made by the AO, sustained by the Ld. CIT(A)

may be deleted. Per contra, the Ld. DR inviting our attention to the copy of assessee's letter dated 04.12.2018, placed in the paper book filed by the assessee submitted that the assessee has clearly stated that I could not produce purchaser of casurina and I am willing to offer Rs. 10 lakhs to the income returned. Therefore, the Ld. DR submitted that the addition made by the AO and sustained by the Ld. CIT(A) does not require and disturbances.

4. We heard the rival submissions and gone through the relevant material. It is clear from the above that the assessee voluntarily admitted Rs. 10 lakhs income out of his agricultural income. Therefore, the assessment made by the AO and sustained by the Ld. CIT(A) is on sound footing and hence the corresponding grounds of the assessee appeal are dismissed.

5. With regard to the appeal on the penalty proceedings, the Ld. AR submitted that in the letter dated 04.12.2018, the assessee has submitted that on account of his admission penalty proceedings should not be initiated. Further, when the Assessing Officer required the assessee to showcause for the levy of penalty, the assessee submitted that in order to cooperate with the department, the assessee

voluntarily offered additional income on the condition that no penalty proceedings would be initiated. Further, the assessee submitted that he has furnished confirmation letters from the purchaser of Casurina has given the bank details in which the sale proceeds are deposited, all the receipts are through cheque only and therefore, the assessee pleaded that penalty proceedings should be dropped. In spite of it, the Assessing Officer levied the penalty and the Ld. CIT(A) without appreciating the facts and circumstances of the case sustained the penalty. In this regard, the Ld. AR submitted that the penalty proceedings are separate from the assessment proceedings. During the penalty proceedings, when the assessee has submitted the confirmation letters, certificates from Village Administrative Officer and bank particulars and explained the transaction, the levy of penalty cant be made without recording a finding that the explanation offered by the assessee is false. Therefore, the Ld. AR pleaded to delete the impugned penalty. Per contra, the Ld. DR supported the orders of the lower authorities.

6. We heard the rival submissions and gone through the relevant material. It is clear from the above that the assessee has furnished confirmation letters from the purchasers of Casurina and necessary

certificates from the Village Administrative Officer to prove that the assessee is owner of the land and he has grown a Casurina Plant etc. The assessee has also explained that the transactions were undertaken through his bank accounts and receipts are through banking channels. Thus, the assessee has clearly explained that he was in receipt of the impugned sum from the sale of Casurina plant. It is also seen from the orders of the lower authorities that the AO issued summons to the purchaser, Shri. Chandrakesavan and levied penalty for non-compliance of the purchaser and compelled the assessee to appear u/s. 131. Therefore, the assessee agreed to admit additional income on a condition that penalty proceedings should not be initiated. However, when the AO has initiated penalty proceedings and sought for explanation, the assessee explained his transactions and brought to the notice of the AO that the impugned transactions were undertaken through banking channel. Therefore, the assessee prima facie, placed relevant materials and explained the transaction. The penalty proceedings being a separate proceeding, if at all, the AO intends to levy penalty, then the AO is bound to record the satisfaction that the explanation offered by the assessee is false. In this case, since the AO has not recorded such findings, we are of the opinion

that the penalty levied is un-sustainable and hence it is deleted. The corresponding grounds of the assessee are allowed.

7. In the result, the assessee's appeal in ITA No. 2348/Chny/2019 is dismissed and its appeal in ITA No. 2349/Chny/2019 is allowed.

Order pronounced on Wednesday, 04th March, 2020 at Chennai.

Sd/-
(जॉर्जमाथन)
(GEORGE MATHAN)
न्यायिकसदस्य/Judicial Member

Sd/-
(एसजयरामन)
(S. JAYARAMAN)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 04th March, 2020

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त) अपील(/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF