

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH : CHENNAI

श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष

एवं एस जयरामन, लेखा सदस्य

**BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER &
SHRI S.JAYARAMAN, ACCOUNTANT MEMBER**

I.T.A.No.2967/Chny/2017

&

C.O.No.40/Chny/2018

Assessment year :2011-12

Income Tax Officer,
Ward-1(1), Salem.636 007.

Vs. Late Mr. Gulabdas Yogendrakumar

Represented by Legal Heirs:

Smt.Y.Dharmistha,(Wife)
Smt.G.Deepa,(Daughter)
Smt.S.Jeena,(Daughter)
Shri Y.Vignesh(Son)

25/8-A,Kallankuthu Street,
Salem 636 001.

(Appellant)

**[PAN AAIPY 2253 P]
(Respondent/Cross Objector)**

अपीलार्थी की ओर से/ Appellant by : Mr.AR.V.Sreenivasan,Add.C.I.T
D.R
प्रत्यर्थी की ओर से /Respondent by : Mr.T.Vasudevan,Advocate
सुनवाई की तारीख/Date of Hearing : 19-05-2020
घोषणा की तारीख /Date of Pronouncement : 20-05-2020

आदेश / O R D E R

PER S.JAYARAMAN, ACCOUNTANT MEMBER

The Revenue filed this appeal against the order of Commissioner of Income Tax (Appeals), Salem in ITA No.38/2014-15 dated 31.08.2017 for assessment years 2011-12. The assessee has

filed a cross-objection against the very same order of the CIT(Appeals). Hence, we heard both the appeal and the cross-objection together and disposing the same by this common order.

2. At the time of hearing, the Ld.AR submitted that the tax effect is below Rs.50 lakhs and hence the Revenue's appeal would be covered by the CBDT Circular No.17/2019 dated 08.08.2019, fixing the monetary limit of Rs.50 lakhs. The Ld.DR on verification admitted that the tax effect involved in this appeal is less than Rs.50 lakhs.

3. On hearing both sides, we find that the tax effect in this appeal of Revenue is less than Rs. 50 lakhs. The CBDT in its Circular No. 17/2019 dated 08.08.2019 instructed its officers to withdraw all the appeals pending before the ITAT where the tax effect is less than Rs. 50 lakhs. This Tribunal is of the considered opinion that this circular of CBDT is binding on the officers of the Department. Therefore, the Revenue cannot proceed further in this appeal. Accordingly, the appeal stands dismissed.

4. In the result, the appeal of Revenue stands dismissed.

5. The Ld. A.R. submitted that there was a delay of 8 days in filing the Cross Objection by the assessee . The assessee has filed a petition for condonation of delay stating that due to assessee's appeal

file/papers mixed up with other files in Counsel's office, the delay was caused. Immediately, after tracing the file, the cross objections was filed on 26.04.2018 with a delay of 8 days. The Ld. A.R. submitted that the delay in filing the cross objections is neither willful nor wanton. It was prayed that the delay may be condoned.

5.1 We have heard the Ld. Departmental Representative and the Ld.counsel for the assessee. We find that there was sufficient cause for not filing the appeal before the stipulated time. Therefore, we condone the delay and admit the appeal.

6. The Ld. A.R. submitted that the assessee received rent of ₹.10,000/- per month. However, the Ld. A.O. estimated the Annual Letting Value (ALV) of property at Mantri Paradise, Bangalore at ₹.15,000/- per month holding that the assessee received rent for financial year 2008-09 at ₹.5,000/- per month, which was enhanced to ₹.10,000/- per month during the financial year 2009-10 and during financial year 2010-11 also, the assessee received ₹.10,000/- per month. During the period of March,2014, at the time of assessment, the A.O. held that the rental income per month from 'Mantri Paradise' flat is in the range of ₹.22,000/- to ₹.24,000/-. Therefore, the A.O. treated the ALV at ₹.15,000/-. In this regard, the Ld. A.R. submitted that the A.O. is not correct in estimating the rental income @ 15,000/- per month while the actual rental receipt was ₹.10,000/- per month.

7. Per contra, the Ld. D.R. supported the orders of the lower authorities.

8. We have heard the rival submissions and perused the material available on record. We find merit in the submissions of the Ld. A.R. The Assessing Officer has not brought any material to show that during the period relevant to this assessment year, the rental income received by the assessee is not reasonable and hence, the addition made by the A.O. is not sustainable. Therefore, the A.O is directed to delete the impugned addition..

9. The next issue is that the A.O disallowed the assessee's claim of interest paid to the tune of ₹.1,50,000/- on housing loan (self-occupied property). It is submitted by the Ld. A.R. that the assessee and his wife having 50% share each in the property, and the investment was made in their name, since the Bank loan had to be taken in the name of children due to assessee's age. Interest on loan was not claimed by the children in their books. In the scrutiny assessment made for the assessment year 2014-15, and assessment year 2017-18, the A.O. has examined this issue and allowed the assessee's claim of interest on housing loan of ₹.1,50,000/- and ₹.2,00,000/- respectively. Therefore, the Ld. A.R pleaded to allow the assessee's claim.

10. Per contra, the Ld. DR submitted that the error, if any, committed by the A.O. in the subsequent year, cannot be the basis for allowing the assessee's claim.

11. We have heard the rival submissions and perused the material available on record. Since in the scrutiny assessments of subsequent two assessment years, supra, the assessee's claim is accepted, on due scrutiny, we find merit in the submissions of the Ld. A.R. and hence, we direct the A.O. to allow the assessee's claim of interest on the housing loan.

12. In the result, the grounds raised in the C.O stands allowed.

13. To sum up, the appeal of Revenue is dismissed and the Cross Objections filed by the assessee is allowed.

Order pronounced on 20th May, 2020 at Chennai.

Sd/-

(धुव्वुरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(एस जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai

दिनांक/Dated: 20th May,2020.

K S Sundaram

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