

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI  
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri Duvvuru RL Reddy, Judicial Member &  
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No. 487/Chny/2020  
निर्धारण वर्ष/Assessment Year: 2014-15  
&

**S.P. No. 123/Chny/2020 [in I.T.A. No. 487/Chny/2020]**

Sandip S. Kamdar,  
Legal Heir of Shantilal Jayantilal  
Kamdar, B 42, Mangalram Apartments,  
825, Poonamallee High Road, Kilpauk,  
Chennai 600 010.

The Income Tax Officer,  
Vs. Non Corporate Ward 9(3),  
Chennai 600 034.

**[PAN:APSPS8383R]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri N. Vijay Kumar, C.A.  
प्रत्यर्थी की ओर से/Respondent by : Ms. R. Anita, JCIT  
सुनवाई की तारीख/ Date of hearing : 11.01.2021  
घोषणा की तारीख /Date of Pronouncement : 11.02.2021

**आदेश / O R D E R**

**PER DUVVURU RL REDDY, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 10, Chennai, dated 22.11.2019 relevant to the assessment year 2014-15. Besides challenging the confirmation of addition of ₹.65,39,000/- under section 68 of the Income Tax Act, 1961 ["Act" in short] the assessee has also challenged the ex-parte order passed by the Id. CIT(A) by raising specific ground.

2. Brief facts of the case are that the assessee filed its return of income for the assessment year 2014-15 on 28.06.2014 admitting total income of ₹.5,83,490/-. The return filed by the assessee was selected for scrutiny and against statutory notices, the assessee filed various details. On perusal of the details furnished by the assessee and considering various submissions made during the course of assessment proceedings, the Assessing Officer completed the assessment under section 143(3) of the Act by assessing the total income of the assessee at ₹.71,22,490/- by disallowing the cash deposits made in assessee's saving bank account of ₹.65,39,000/- under section 68 of the Act. On appeal, since the assessee could not responded/ represented his case, the Id. CIT(A) dismissed the appeal.

3. On being aggrieved, the assessee is in appeal before the Tribunal. By referring to the Death Certificate, the Id. Counsel for the assessee has submitted that as on the date of hearing fixed by the Id. CIT(A) on 21.11.2019, the assessee Shri Shanthilal Jayanthilal Kamdar was not alive since he has passed away on 14.11.2019. It was further submission that the Id. CIT(A) has not adjudicated the issue on merits. Since the legal heir of the deceased assessee shall be representing the case, it was prayed for adjudication of the appeal by the Id. CIT(A) after affording sufficient opportunities of being heard. On the other hand, the Id. DR has not seriously objected to the above submissions of the Id. Counsel.

4. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. On perusal of the appellate order, the Id. CIT(A) has stated that the assessee has not attended any hearing before this office on the three dates of hearing fixed. In fact, as per the Death Certificate issued by the Greater Chennai Corporation, on the date of hearing fixed by the Id. CIT(A) on 21.11.2019, the assessee Shri Shanthilal Jayanthilal Kamdar was not alive since he passed away on 14.11.2019. Now, since the legal heir of the deceased assessee is pursuing the case, we are of the considered opinion that the legal heir of the assessee should be given sufficient opportunity of being heard to represent the case before the Id. CIT(A). Accordingly, we set aside the appellate order and the Id. CIT(A) is directed to adjudicate the issue raised in the appeal of the assessee after affording sufficient opportunities of being heard to the legal heir of the deceased assessee.

5. The stay petition filed by the assessee was also heard along with the main appeal. Since we have adjudicated the main appeal by setting aside the CIT(A)'s order and remitted the matter back to the file of the Id. CIT(A) for fresh consideration, the Department cannot take any coercive measures to initiate recovery proceedings. Thus, the stay petition filed by the assessee become infructuous and accordingly, the same stands dismissed.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes and the stay petition is dismissed.

Order pronounced on the 11<sup>th</sup> February, 2021 in Chennai.

Sd/-  
(G. MANJUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
(DUVVURU RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, 11.02.2021  
Vm/-

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.