

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री जी मंजूनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A No.950/Chny/2019
Assessment Year: 2011 - 2012

Dr. K. Senthilnathan,
C/o Shri. R. Mugunthan,
Chartered Accountant,
Old No.10, New No.23,
Arisikaran Street, Mylapore,
Chennai – 600 004.

The Assistant Commissioner of
Income Tax,
Vs. Corporate Circle – 7(1)
6th Floor, Rm. No.608,
New Block, M.G. Road,
Chennai – 600 034.

[PAN: AADPK 0449A]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Mr. R. Mugunthan, C.A.
: Mr. G. Johnson, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 02.02.2021

घोषणा की तारीख /Date of Pronouncement

: 20.04.2021

आदेश / ORDER

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is against the order of the learned Commissioner of Income Tax (Appeals)-7, Chennai in I.T.A. No.22/CIT(A)-7/2014-15, dated 22.02.2019 relevant to the Assessment Year 2011 - 2012.

2. The first ground of appeal relates to the addition of Rs.1,03,00,000/- . In the Assessment Order, the Assessing Officer has noted that as per the ledger of M/s. Sumathi Dugar, the Assessee has received a sum of Rs.1,66,00,000/- on the following days, as under:

Date of Credit	Bank Account	Amount Received (In Rupees)
13.10.2010	Indian Overseas Bank	50,00,000/-
05.01.2011	Indian Overseas Bank	25,00,000
14.01.2011	Indian Overseas Bank	18,00,000/-
25.01.2011	Indian Overseas Bank	25,00,000/-
09.02.2011	Indian Overseas Bank	23,00,000/-
15.03.2011	Indian Overseas Bank	25,00,000/-

Out of Rs.1,66,00,000/-, the Assessee has repaid Rs.63,00,000/- during the Financial Year 2010-2011. On verification of Indian Overseas Bank, the above said credit is not reflected in the Indian Overseas Bank statement. The learned Counsel for the Assessee was asked to show the corresponding credit entry in the Bank statement for which he was unable to give a correct explanation. Hence, the Assessing Officer had disallowed the amount of Rs.1,03,00,000/- for non-submission of adequate evidences / supporting documents under unexplained investment and added the same to the total income of the Assessee for the Financial Year 2010 – 2011.

3. On appeal, the learned Commissioner of Income Tax (Appeals) has confirmed the order of the Assessing Officer by observing that even in the remand report filed by the Assessing Officer, it is very clear on the issue of the Bank statement entries and also do not specify to the Assessee's claim.

4. On appeal before us, the learned Counsel for the Assessee has submitted that in the remand report, the Assessing Officer verified all the details including the Bankers u/s.133(6) of the Income Tax Act, 1961 and also gave a finding that the amounts were received from Sumathi Dugar and others and in the absence of individual names of lenders, the same could not be confirmed. He requested that one more opportunity be given to the Assessee to file the Bank statement and all other relevant details too.

5. The learned Departmental Representative has not raised any objection on this accord.

6. We have heard both the sides through video-conferencing, perused the materials available on record and gone through the orders of the authorities below.

7. In this issue, we find that neither the Assessing Officer nor the learned Commissioner of Income Tax (Appeals) has properly verified the bank statement filed by the Assessee and therefore we direct the Assessee to file all the details before the Assessing Officer and thereupon the Assessing Officer is directed to decide the issue afresh in accordance with law.

In view of the above, we set aside the order passed by the learned Commissioner of Income Tax (Appeals) and remit back the issue to the file of the Assessing Officer. Thus, this ground of appeal filed by the Assessee is allowed for statistical purposes.

8. The second ground of appeal in this case relates to addition in respect of Rs.50,00,000 received from M/s. Sri Chakra Enterprises. In the Assessment Order, the Assessing Officer has noted that M/s. Sri Chakra Enterprises had entered into an agreement with Shri. Senthilnathan, the Assessee that was executed on the 14th day of September 2011 which states that M/s. Sri Chakra Enterprises (Purchaser) has agreed to purchase the property more fully described in Schedule – B, (land measuring to an extent of 3,228 Sq.ft. being the Plot No.5 and bearing Door No.3, Kurungaleeswaran Koil Street, Koyambedu Village) from the Assessee for a sale consideration of

Rs.5,25,00,000/-. The purchaser has on this day paid a sum of Rs.1.96 crores.

9. The Assessing Officer has noted that the advance received by the Assessee was from an unregistered document and also there is no signature of the witness too. Since, the agreement was entered well after the payment of Rs.1.96 crores to the Assessee, there is no cheque number in the said agreement. On verification of the ledger with the Bank statement, it was noted that on 02.07.2010, Shri Vijay Karthik has transferred an amount of Rs.17,00,000/- and Shri P. Palani has transferred an amount of Rs.15,00,000/- and Shri A.P. Selvam (Proprietor of Sri Chakra Enterprises) has transferred an amount of Rs.14,00,000/- to the Assessee's Bank account. The following are the amounts received on the said dates as advance.

- a) Rs.17,00,000/- by way of cheque dated 02.07.2010
- b) Rs.15,00,000/- by way of cheque dated 02.07.2010
- c) Rs.14,00,000/- by way of cheque dated 02.07.2010
- d) Rs.50,00,000/- by way of cheque dated 04.07.2010
- e) Rs.37,00,000/- by way of cheque dated 31.08.2009
- f) Rs.25,00,000/- by way of cheque dated 31.03.2010
- g) Rs.38,00,000/- by way of cheque dated 31.03.2010

10. The Assessing Officer also noted that there is no credit of Rs.50,00,000/- on 04.07.2010 in the Bank statement and the ledger account of M/s. Sri Chakra Enterprises says that it is a journal entry on 31.03.2011. However, the Assessee did not submit any proof for the

opening balance of Rs.1,00,00,000/-. During the scrutiny proceedings, the Assessee was asked to explain the journal entry and the credit from other parties and was requested to submit the ledger for the F.Y. 201- 2011 with the relevant Bank statement for which the Assessee could not explain and was unable to submit any evidences. Hence, the Assessing Officer disallowed the sum of Rs.1,82,00,000/- (except Rs.14,00,000/- received from Shri A.P. Selvam) for non-submission of adequate evidences & supporting documents under unexplained investment and added the same to the total income of the Assessee for the Financial Year 2010 – 2011.

11. On appeal, the learned Commissioner of Income Tax (Appeals) by calling the remand report restricted the addition to the extent of Rs.50,00,000/-.

12. Before us, the learned Counsel for the Assessee has submitted that all the details were filed before the Assessing Officer and also pointed out pages 10 & 11 of the paper-book and submitted that the issue be remitted back to the Assessing Officer.

13. On the other hand, the learned Departmental Representative has not raised any objection in this regard.

14. We have heard both the sides through video-conferencing, perused the materials available on record and gone through the orders of the authorities below.

15. The addition made by the Assessing Officer on the ground that the amounts received by the Assessee is not reflected in the bank account statement of the Assessee whereas as per pages 10 & 11 of the paper-book the transaction were reflected. Keeping in view the above and by considering the request made by the Assessee, we remit the issue back to the Assessing Officer to examine pages 10 & 11 of the paper-book and decide the issue afresh in accordance with law. Thus, this ground of appeal is allowed for statistical purpose.

16. The third ground of appeal in this case relates to disallowance u/s.40(a)(ia). In the Assessment Order, the Assessing Officer has noted that on perusal of the profit & loss account for the year ended 31.03.2011, the Assessee has claimed interest paid to others amounting to Rs.5,46,000/-.

The Assessing Officer has asked the Assessee details in respect of the Tax Deducted at Source [TDS]. However, the Assessee has not filed any details of the TDS deductions and hence the Assessing

Officer had disallowed the amount of Rs.5,46,000/- u/s. 40(a)(ia) of the Income Tax Act, 1961.

17. On appeal, the learned Commissioner of Income Tax (Appeals) has confirmed the order of the Assessing Officer.

18. Before us, the learned Counsel for the Assessee has submitted that the interest paid to various persons be disallowed as some of the parties have paid taxes under the above income and therefore no disallowance can be made.

19. On appeal, the learned Commissioner of Income Tax (Appeals) has confirmed the order of the Assessing Officer.

20. We have heard both the sides through video-conferencing, perused the materials available on record and gone through the orders of the authorities below.

21. From the above facts, it appears that the Assessee has paid certain amounts to various parties. According to the Assessing Officer, no TDS has been deducted. However, according to the Assessee, some of the parties have already paid taxes for the amount paid by the Assessee. The Assessee has neither filed any details

before the Assessing Officer nor before the learned Commissioner of Income Tax (Appeals).

22. Therefore, we are of the opinion that all the details in respect of the payments made by the Assessee needs to be verified. Thus, we set aside the order passed by the learned Commissioner of Income Tax (Appeals) and direct the Assessing Officer to examine all the details and decide the issue afresh in accordance with law. This ground of appeal is allowed for statistical purpose.

23. In the result, the appeal filed by the Assessee in I.T.A. No.950/Chny/2019 is allowed for statistical purpose.

Order pronounced on 20th April, 2021 in Chennai.

Sd/-

(श्री जी मंजूनाथा)

(G. MANJUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(वी दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 20th April, 2021

IA, Sr. PS

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