

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

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

आयकर अपील सं./ITA No.2996/Chny/2019
निर्धारण वर्ष /Assessment Year: 2016-17

Shri A. Elumalai,
No.7, Vaigunda Perumal Koil Street,
Uthiramerur,
Kanchipuram – 603 406.
[PAN: AAWPE 7210J]
(अपीलार्थी/Appellant)

The Income Tax Officer,
Ward-2, No.96, MM Avenue,
Vs. 2nd Cross Street,
Kanchipuram-631 501.
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr. P. Rajasekaran, C.A
प्रत्यर्थी की ओर से /Respondent by : Mr. Suresh Periasamy, JCIT
सुनवाई की तारीख/Date of Hearing : 14.07.2021
घोषणा की तारीख /Date of Pronouncement : 22.07.2021

आदेश / ORDER

PER SHRI V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-7, Chennai in I.T.A No.151/CIT(A)-7/2018-19 dated 20.08.2019 relevant to the Assessment Year 2016-17.

2. The facts are in brief that the assessee is an individual deriving income from Milk agency in the name and style of M/s. Swami Vivekananda Agency since 2015. The assessee has filed his return of

income for Assessment Year 2016-17 by admitting total income of Rs. 2,42,140/- The case was selected for scrutiny and notices u/s. 143(2) of the Income Tax Act, 1961 (hereafter 'the Act') was issued to the assessee. In response to the notice, the assessee Shri A. Elumalai appeared in person. Subsequently, the A.O was issued another letter on 08.10.2018 calling for details. In response to the letter issued by the A.O, the assessee appeared in person and furnished copies of vouchers and bank statements. From the details filed by the assessee, the A.O has noted that during the course of discussion, the assessee is engaged in Milk agency and running business in the name and style of M/s. Swami Vivekananda Agency since, 2015. During the course of assessment proceedings, the A.O has asked the assessee to furnish an explanation as to why the cash deposit of demonetization period i.e., (9th November to 30th December) is reported as per SFT reporting, No return was filed for preceding assessment year and current year return filed after 07.11.2016. The assessee was asked to produce bank statement for all the accounts maintained during financial year 2015-16 and also copy of agreement. The assessee has not appeared for the hearing on 15.11.2018 and there was no response from the assessee. Accordingly, the A.O has completed the assessment and the income estimated @ 8% of Rs. 1,52,00,000/- and the same is brought to tax. Accordingly, assessment is completed. Before the Ld. CIT(A), it was

submitted that the assessee is only receiving commission from supply of milk made by him as an acting agent for M/s. Hatsun Agro Product Ltd. and therefore, the amount deposited in the bank not belonging to the assessee it is belonging to M/s. Hatsun Agro Product Ltd., Therefore, the addition made by the A.O can be deleted. The Ld. CIT(A) by considering the explanation of the assessee has observed that there is no mentioning in the agreement with reference to commission received by the assessee and also the assessee is not able to demonstrate how he has earned the commission of Rs. 2,42,140/- and the Ld. CIT(A) confirmed the order of the A.O.

3. On appeal before us, the Id. Counsel for the assessee has submitted that one more opportunity may be given to substantiate his case before the A.O and also submitted that all the details in respect of commission earned by the assessee are ready to produce before the A.O.

4. We have heard both the sides through video conferencing, perused the materials available on record and gone through the orders of the authorities below. In this case, despite various opportunities given, the assessee has not able to furnish complete details before the Assessing Officer. However, in order to substantiate the claim of the assessee, the Id. Counsel for the assessee has pleaded before us that

the assessee may be given one more opportunity of being heard. Thus, to meet the ends of natural justice, we are of the opinion that one more opportunity may be given to the assessee to substantiate his case before the A.O. Accordingly, we set aside the order passed by the Ld. CIT(A) and remit the matter back to the file of A.O to decide the issue *de novo* in accordance with law. We also direct the assessee to file all relevant material to substantiate his case before the A.O. Accordingly, this appeal is allowed for statistical purpose.

5. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced on 22nd July, 2021 in Chennai.

Sd/-
(श्री जी मंजूनथ) [D]
(G. MANJUNATHA)

लेखासदस्य/ACCOUNTANT MEMBER

Sd/-
(वी दुर्गा राव)
(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai, दिनांक/Dated: 22nd July, 2021.
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