

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' 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. 284/Chny/2019
निर्धारण वर्ष/Assessment Year: 2013-14

Shri Thangaraj Muthukumar,
No. 152/24, Maruthi Complex,
Jawaharlal Nehru Salai, Arumbakkam,
Chennai 600 106.

The Income Tax Officer,
Vs. Non Corporate Ward 8(2),
Chennai.

[PAN:ALEPM2119B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri G. Johnson, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 02.09.2021
घोषणा की तारीख /Date of Pronouncement : 16.09.2021

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) 9 i/c, Chennai, dated 28.09.2018 relevant to the assessment year 2013-14. The effective ground raised in the appeal relates to confirmation of additions of (1) ₹.68,20,999/- representing the sundry creditors, (2) ₹.15,00,000/- representing the unsecured loan and (3) ₹.8,87,654/- representing 50% of the indirect expenses.

2. The above appeal is filed with a delay of 72 days, for which, the assessee has filed a petition in support of an affidavit for condonation of the

delay, to which; the Id. DR has not raised any serious objection. Consequently, since the assessee was prevented by sufficient cause, the delay of 72 days in filing of the appeal stands condoned and the appeal is admitted for adjudication.

3. Brief facts of the case are that the assessee is an individual and filed his return of income for the assessment year 2013-14 on 22.10.2013 with a returned income of ₹.2,29,520/-. The return filed by the assessee was processed under section 143(1) of the Income Tax Act, 1961 ["Act" in short]. Subsequently, the case was selected for scrutiny and notice under section 143(2) of the Act was issued and served on the assessee. Further, notice under section 142(1) of the Act along with questionnaire calling for details was also issued. During the pendency of the scrutiny proceedings the assessee was requested to submit various details in support of his e-return as filed on 22.10.2013 with supporting P & L and balance sheet, etc. Further, the assessee was requested to file various details through notices dated 29.06.2015, 07.09.2015 and 30.10.2016. However, in response to all these notices, the assessee could not submit any details as called for in spite of availing sufficient time and opportunities. In view of the categorical non-cooperation and non-submission of details as called for, as it involves time barring assessment, a detailed and specific notice under section 144 of the Act dated 18.01.2016 was issued clearly seeking full details to be submitted

and bringing to the knowledge of the assessee in unequivocal terms to treat this notice as final opportunity as it is time barring assessment. To meet the ends of justice, the Assessing Officer offered one more opportunity and issued a final letter dated 07.03.2016 calling for details and supporting proofs along with relevant ledger extracts, etc. to adduce his claims in the e-return of income. However, there was no response from the assessee and thus, the Assessing Officer proceeded to conclude the best judgement assessment with materials available on record and completed the assessment under section 143(3) r.w.s. 144 of the Act by making various additions. On appeal, after considering the written submissions of the assessee filed on 17.09.2018, the Id. CIT(A) confirmed the additions and dismissed the appeal of the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal. By filing various details before the Tribunal such as financial statements, tax audit report, details of sundry creditors, etc., the Id. Counsel for the assessee prayed for one more opportunity for furnishing the details to substantiate the claims of the assessee.

5. On the other hand, by objecting to the submissions of the Id. Counsel for the assessee, the Id. DR has submitted that before completing

assessment under section 143(3) r.w.s. 144 of the Act, the assessee was offered various opportunities for furnishing details to support his claim.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. On perusal of the assessment order under section 143(3) r.w.s. 144 of the Act, we find that the assessee was given sufficient opportunities to furnish the details to substantiate his claims. However, the assessee failed to furnish any details in support of the claims made in the return of income. With regard to the increase of sundry creditors as reflected in the return of income over the previous year of ₹.68,20,999/-, neither the assessee nor the sundry creditors have made available ledger extracts etc. confirming such balances clearly depicting the purchases, as claimed. However, since the assessee has not furnished any details, the sundry credits stand unreconcilable and unverifiable. In order to admit a claim made by the assessee, the burden lies on the assessee to furnish confirmation from the sundry creditors. With regard to the unsecured loans to the extent of ₹.15,00,000/-, the assessee is required to furnish complete details of the persons from whom the loans were taken to verify the creditworthiness of the lender, the source/mode of receipt and correctness of the transaction. With regard to the disallowance of indirect expenses, the assessee is required to furnish details of ledger extract with supporting bills and voucher to justify the correctness of the

claim that the expenses are incurred in connection with the assessee's business. Since the assessee failed to furnish the above details, the additions were made and confirmed by the Id. CIT(A). Before us, the Id. Counsel for the assessee has prayed for one more opportunity. Keeping in view the principals of natural justice, we are of the considered opinion that the assessee shall be given one more opportunity of being heard for substantiating his claim. Accordingly, we set aside the order of the Id. CIT(A) and remit the matter back to the file of the Assessing Officer for de novo assessment after considering the details as may be filed by the assessee. The assessee is also directed to file all the details as may be required by the Assessing Officer for completing the assessment. If the assessee fails to furnish the details as may be required by the Assessing Officer, then the assessment already completed under section 143(3) r.w.s. 144 of the Act and confirmed by the Id. CIT(A) stands sustained.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 16th September, 2021 in Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, 16.09.2021

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.