

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

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

आयकर अपील सं./ITA No.2600/Chny/2019
निर्धारण वर्ष /Assessment Year: 2005-06

Shri T.S. Pitchumani,
Flat No.A 44 – Block OAK,
City Meadows, 82,
Andal Amman Street, Nolambur,
Chennai – 600 095.
[PAN: AAGPP 6530N]

The Dy. Commissioner of
Income Tax,
Vs. Company Circle-IV(1),
Chennai.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

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

: Mr. G. Baskar, Advocate
: Mr. Suresh Periasamy, JCIT

सुनवाई की तारीख/Date of Hearing
घोषणा की तारीख /Date of Pronouncement

: 05.09.2021
: 24.09.2021

आदेश / **ORDER**

Per V. Durga Rao, Judicial Member:

This appeal filed by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-4, Chennai in I.T.A No.18/2010-11/A.Y. 2005-06/CIT(A)-4 dated 26.06.2019 relevant to the Assessment Year 2013-14.

2. The assessee has filed appeal without paying of payment for requisite fee. When this appeal was taken up by the Registry for

scrutiny, they noticed that the assessee has not filed challan which shows the payment of requisite fee as per Income Tax Rules and the Registry is treated it as a defect appeal. The assessee filed an affidavit before the Tribunal by stating that his day to day life runs only on the money provided by his son and he is not in a position to pay the fee as required by Income Tax Rules and that he may be treated as an indigent person and requested for exemption of payment of requisite fee.

3. The brief facts of the case are that the assessee filed his return of income admitting total income of Rs. 2,94,448/- and the same was processed u/s. 143(1) of the Income Tax Act, 1961 (hereinafter as "the Act") on 26.07.2006. The Assessing Officer (hereinafter as "A.O") has received information from the A.O of M/s. All-in-one Infotech Pvt. Ltd. that the assessee introduced share capital of Rs. 95,00,000/-, share application money of Rs. 25,78,450/- and unsecured loan of Rs. 10,07,000/- and the A.O examined the return of income filed by the assessee for the assessment year under consideration and noticed that the assessee has not disclosed investment made by the assessee. Therefore, the A.O is of the opinion that there is an escapement of income and the A.O has issued a notice u/s. 148 of the Act and reopened the case and assessment was completed. From the

assessment order, it is very clear that the assessee appeared only once on 10.12.2010. Subsequently, the assessee has not appeared even for show-cause notice and no reply was given. Therefore, assessment was completed u/s. 144 of the Act.

4. The assessee has filed an appeal before the CIT(A). The Ld. CIT(A) has given various dates for hearing and on 08.08.2011, the Authorized Representative of the assessee was appeared and asked adjournment. Subsequently, the case was posted for various dates i.e., 11.11.2011, 02.12.2011, 13.01.2012, 19.11.2012, 05.08.2013, 03.10.2013, 21.10.2013, 07.11.2013, 06.02.2014, 20.01.2016, 02.02.2017, 15.11.2018, 28.11.2018, 12.12.2018, 28.12.2018, 15.04.2019, 30.04.2019 & 23.05.2019. In spite of several opportunities given to the assessee, he was not appeared before Ld. CIT(A) therefore, the Ld. CIT(A) has passed an ex-parte order on 26.09.2019.

5. The Ld. Counsel for the assessee has submitted before us that the assessee's son is working at USA and the assessee is residing in the house belonging to his son and also submitted that the assessee's day to day life runs only on the money provided by his son. Therefore, the Ld. Counsel for the assessee submitted that the assessee may be treated as an indigent person and exemption may be granted for non payment of fee. He also relied on the order of ITAT 'G' Bench, Mumbai

in the case of *Yeshashree Yogesh Naik v. Dy. CIT [2011] 44 SOT 1 (Mum.)*.

6. On the other hand, the Ld. Departmental Representative strongly supported the orders of the authorities below.

7. We have heard both the sides, perused the materials available on record and gone through the orders of the authorities below. In this case, the assessee neither appeared before the A.O nor before Ld. CIT(A). The A.O as well as Ld. CIT(A) has given various opportunities but the assessee not utilized the same. Now the case of the assessee is that he is an indigent person and he is depend upon the money send by his son. The assessee not filed any details to show that he is an indigent person such as bank statement and house which he is residing to show that it is not his own. The assessee except stating he is indigent person, no details was filed for the same. Under these facts and circumstances of the case and also by considering the conduct of the assessee, the assessee cannot be treated as indigent person. Accordingly, we reject the assessee's request for exemption from the payment of tax and this appeal is dismissed for non-rectifying the defect pointed out by the Registry. In view of the above, the appeal filed by the assessee is dismissed. So far as the case law relied on by the assessee, the same has no application to the facts of the case.

8. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on 24th September, 2021 in Chennai.

Sd/-
(श्री जी मंजूनथ) **(G. MANJUNATHA)**

लेखासदस्य/**ACCOUNTANT MEMBER**

Sd/-
(वी दुर्गराव) **(V. DURGA RAO)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai, दिनांक/Dated: 24th September, 2021.

EDN/-

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