

आयकर अपीलीय अधिकरण, 'सी' न्याय पीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH, CHENNAI
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री जी.मंजुनाथ, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER
AND SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.5/Chny/2020

(निर्धारणवर्ष / Assessment Year: 2016-17)

Mr. V.T.C. Selvarajan, 15/3, Sivaji Street, T.Nagar, Chennai-600 017.	Vs	The Income Tax Officer, Non-Corporate Ward-2(1), Chennai-600 034.
PAN: AASPS 5826L		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Mr. J.Radhakrishnan, Advocate
प्रत्यर्थी की ओरसे/Respondent by	:	Mr. G.Johnson, Addl.CIT

सुनवाई की तारीख/Date of hearing	:	27.09.2021
घोषणा की तारीख /Date of Pronouncement	:	27.09.2021

आदेश / ORDER

PER G.MANJUNATHA, AM:

This appeal filed by the assessee is directed against the order of the learned CIT(A)-2, Chennai dated 25.10.2019 and pertains to assessment year 2010-11.

2. Brief facts of the case are that the assessee is an individual filed his return of income for assessment year 2016-17 on 01.03.2018 declaring total income of Rs.3,46,950/-. The case was taken up for scrutiny and assessment has been completed u/s.143(3) of the Income Tax Act, 1961, on 18.12.2018 and determined total income of Rs.4,60,61,112/- by making various additions, including additions towards unexplained cash credit u/s.68 of the Income Tax Act, 1961, for

Rs.2,82,36,200/-, disallowance of expenditure of Rs.10,28,938/- and additions towards capital gain of Rs.1,64,49,024/-. The assessee preferred an appeal before the CIT(A), but neither appeared nor filed any details despite number of opportunities of hearing was provided. Therefore, the CIT(A) dismissed appeal filed by the assessee ex-parte and confirmed additions made by the Assessing Officer. Aggrieved by the CIT(A) order, the assessee is in appeal before us.

3. The learned A.R for the assessee submitted that the learned CIT(A) has erred in dismissing appeal filed by the assessee without providing reasonable opportunity of hearing in violation of principles of natural justice, which is evident from fact that although, he claims four dates of hearing was provided, but except on 02.07.2019 remaining three notices issued by the CIT(A) was not served on the assessee and therefore, the assessee could not appear before the learned CIT(A). Therefore, one more opportunity of hearing may be given to go back to learned CIT(A) and file necessary evidences to justify his case.

4. The learned DR, on the other hand, strongly supporting order of the learned CIT(A) submitted that the assessee neither appeared nor filed any details and thus, there is no reason to give one more opportunity of hearing to the assessee.

5. We have heard both the parties, perused material available on record and gone through orders of the authorities below. No doubt, appellate authority has no option, but to dispose off appeal filed by the assessee, in case appellant does not appear before the appellate authority, despite various opportunity of hearing was provided, but such appeal should be disposed off on merits on the basis of material available on record. But, before disposal of appeal, reasonable opportunity of hearing must be given to explain his case. In this case, the assessee contended that although four dates were given, but except on one occasion, three call notices issued by learned CIT(A) were not served on the assessee and said claim was uncontroverted. Therefore, considering facts and circumstances of this case, we are of the considered view that issue needs to go back to the file of learned CIT(A) to give one more opportunity of hearing to the assessee to file necessary

evidences and explain his case. Hence, we set aside appeal to the file of learned CIT(A) and direct him to reconsider the issue, after providing reasonable opportunity of hearing to the assessee. Needless to say the assessee shall appear before the learned CIT(A) and furnish necessary details without seeking any adjournment unless otherwise warranted.

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

Order pronounced in the open court on 27th September, 2021

Sd/-

(धुव्वुरु आर.एल रेड्डी)

(Duvvuru RL Reddy)

न्यायिक सदस्य /Judicial Member

चेन्नई/Chennai,

दिनांक/Dated 27th September, 2021

DS

Sd/-

(जी. मंजुनाथ)

(G.Manjunatha)

लेखा सदस्य / Accountant Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. Appellant
2. Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.