

आयकर अपीलीय अधिकरण, 'ए' (एस एम सी) न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' (SMC) BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

आयकर अपील सं./ITA No.: 475/CHNY/2020
निर्धारण वर्ष /Assessment Year: 2003-04

Shri P. Vaithilingam,
No.7, Rockfort Complex,
Chathram Bus Stand,
Trichy – 620 002.

The ITO,
v. Ward – I(2),
Williams Road, Cantonment,
Trichy – 620 001.

PAN : AAEPV 1719R

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : None
प्रत्यर्थी की ओर से/Respondent by : Shri B. Sajive, JCIT

सुनवाई की तारीख/Date of Hearing : 08.11.2021

घोषणा की तारीख/Date of Pronouncement : 08.11.2021

आदेश /O R D E R

1. This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-1, Trichy, in ITA No.453/2010-11/CIT(A)-1/TRY, order dated 26.12.2019. The Assessment was framed by Income Tax Officer, Ward I(2), Trichy for the assessment year 2003-04 vide order dated 30.12.2010 U/s 143(3) r.w.s. 260 of the Income Tax Act, 1961 (hereinafter 'the Act').

2. At the outset, it is noticed that none present for assessee, when the appeal was called for hearing. However, going through the facts, I decided to decide the appeal after hearing Id. senior Department Representative.

3. I have gone through the grounds raised by the assessee in regard to two additions of Rs.3,00,000/- of expenditure and Rs.4,00,000/- towards receipt each from assessee's HUF and his brother's HUF, added by the AO. The contention of the assessee in grounds of appeal is against ex-parte order passed by CIT(A) without recording any finding on merits. I noticed from the order of CIT(A), para 4 which reads as under:-

“4. It appears that assessee has no interest in pursuing appeal filed by him and has nothing to say and he is either unwilling or incapable of furnishing adequate evidence in support of his own claims. On basis of details available from record it could be seen that appeal of assessee has no merit and the same is hence dismissed.”

The CIT(A) has dismissed the appeal simply for non-prosecution. When these facts were confronted to Id. senior Department Representative, he fairly conceded the position and stated that matter can be remanded back to the file of the CIT(A).

4. After hearing Id. senior DR and going through the case records as noted above, I'm of the view that the CIT(A) is a quasi judicial authority and in the statute of Income Tax Act, CIT(A) cannot dismiss the appeal for default expressly or by inevitable implication, but the appellate authority has to decide the appeal on merits. The appellate authority has no jurisdiction to dismiss the appeal for default but he is bound to decide the appeal on merits even in the absence of the assessee. Hence, dismissal for default by CIT(A) is bad in law and accordingly, we set aside the order of CIT(A). The appeal is remanded back to the file of CIT(A) for fresh adjudication, after allowing reasonable opportunity of being heard to the assessee. We order accordingly.

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

Order pronounced in the open court on 8th November, 2021 at Chennai.

Sd/-

(महावीर सिंह)

(Mahavir Singh)

उपाध्यक्ष /Vice President

चेन्नई/Chennai,

दिनांक/Dated, the 8th November, 2021

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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