

आयकर अपीलिय अधिकरण, 'बी' (एस एम सी) न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' (SMC) BENCH, CHENNAI

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

आयकर अपील सं./ITA No.: **512/CHNY/2020**
निर्धारण वर्ष /Assessment Year: 2011-12

Shri Damodaran Sivasankaran,
Plot No.1656, 21st Main Road,
Chennai – 600040.

The ITO,
v. Non-Corporate Ward-7(3)
Chennai - 34.

PAN : AASPS 5917Q

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri K. Balasubramanian, Advocate
: 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)-7, Chennai, in ITA No.134/CIT(A)-7/2018-19, order dated 16.12.2019. The Assessment was framed by Income Tax Officer, Non-Corporate Ward - 7(3), Chennai for the assessment year 2011-12 vide order dated 26.12.2018 U/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter 'the Act').

2. At the outset, the Id.counsel for the assessee took me through the order of CIT(A) and stated that order of CIT(A) is ex-parte and a non-speaking order. When this was confronted to Id.senior Department Representative, he could not controvert the above factual situation. The Id.counsel then took me through the assessment order and read out Para 2 & 3 and stated that even the AO has not allowed opportunity of being heard and simpliciter made addition by stating that the assessee has not produced any evidence of expenses in regard to repayment of credit card bills. This fact was also confronted to Id.senior DR, but he could not controvert.

3. After hearing both the sides and going through the orders of the lower authorities i.e., order of the CIT(A) as well as order of the AO, I noticed that orders of the lower authorities i.e., both the authorities are non-speaking and even the order of CIT(A) is ex-parte. Practically, the CIT(A) has not allowed opportunity of being heard to the assessee. When these facts were put to both the sides, both agreed that matter can be restored to the file of the AO for fresh adjudication because in case, the matter is set aside to the file

of the CIT(A), the CIT(A) has to obtain report from the AO. Hence I deem it fit, in the interest of natural justice that matter be set aside to the AO. Hence, I reverse the orders of the lower authorities and remand the matter back to the file of the AO for fresh adjudication.

4. 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. |