

आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, CHENNAI

माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.984/Mds/2015
(निर्धारण वर्ष / Assessment Year: 2010-11)

Shri S. Manikandan S/o Shanmugam No.25/1, G1 Kings Park SSR Pankajam Road, Saligramam, Chennai – 600 093.	बनाम/ Vs.	ITO Ward-I(2), Thanjavur.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AEOPM-0077-R		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri T. Banusekar (C.A) – Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri G. Johnson (Addl.CIT) – Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	06-12-2021
घोषणा की तारीख / Date of Pronouncement	:	04-01-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2010-11 is a recalled matter since the appeal was dismissed ex-parte qua the assessee vide order dated 27/07/2016. However, upon assessee's application, the order has been recalled vide MP No. 61/Mds/2017 dated 12/01/2018. Accordingly, the appeal has come up for fresh hearing before this bench. In this appeal, the assessee is aggrieved by

confirmation of certain addition arising out of cash deposited by the assessee in its various bank accounts during the year.

2. The Ld. AR, drawing our attention to the documents placed in the paper-book, submitted that the cash deposits were sourced out of property transactions which have not been properly appreciated by the lower authorities. The Ld. DR, on the other hand, submitted that the complete onus to prove the source of cash deposit was on assessee and since the assessee failed to establish the same, the additions are justified.

3. Having heard rival submissions and after due consideration of material on record including the orders of lower authorities, our adjudication to the subject matter of appeal would be as under. The assessee being resident individual has derived income under the head 'capital gains' as well as 'income from other sources'.

4.1 During assessment proceedings, it transpired that the assessee deposited cash of Rs.96.65 Lacs in ICICI Savings bank account. Thereafter, amount of Rs.85 Lacs was transferred to another savings account which was utilized by assessee for share trading. The source of deposit was stated to be sale cancellation agreement dated 13.07.2009. However, finding discrepancy in assessee's explanation, the amount of Rs.96.50 Lacs was added to the income of the assessee.

4.2 The second addition of Rs.50 Lacs stem from the fact that the assessee deposited another Rs.50.15 Lacs on 13.07.2009 in UCO bank out of which Rs.50 Lacs was used to issue pay order to honor the sale cancellation agreement dated 13.07.2009 as referred to in para 4.1 above. It was submitted that the cash was sourced out of sale of agricultural land situated at Pisanathpur Village by different sale

documents as tabulated on page no.5 of the assessment order. However, after going through these documents, it was concluded by Ld. AO that cash deposits could not be sourced out of these sale proceeds. Resultantly, an addition of Rs.50 Lacs was made in the hands of the assessee.

4.3 Another addition of Rs.9.57 Lacs was made due to difference in year-end bank balances. However, this addition has not been contested by Ld. AR during hearing before us and therefore, not dealt with.

5. Though the assessee assailed the additions before Ld. CIT(A), however, Ld. CIT(A) has primarily concurred with the stand of Ld. AO and the additions have been confirmed in the impugned order. Aggrieved, the assessee is in further appeal before us.

Our findings and Adjudication

6. Before us, Ld. AR has submitted that the cash of Rs.90 Lacs has been funded out of three sources viz. (i) Cancellation of Agreement of Sale dated 15.06.2009 wherein the assessee has received a sum of Rs.30 Lacs from Shri J.Gunashekarana; (ii) Cancellation of Agreement of Sale dated 17.06.2009 wherein the assessee has received a sum of Rs.40 Lacs from Shri M.Karuppaiah; (iii) Cancellation of Agreement of Sale dated 17.06.2009 wherein the assessee has received a sum of Rs.20 Lacs from Shri M.Marimuthu;

Similarly, the sum of Rs.50 Lacs has been stated to have been sourced out of money received by assessee's mother from an entity namely M/s Nithya Packaging Private Limited (Copies of Sale Deed kept on page no.88 to 114 of the paper-book).

7. After going through all these documents, we find that these documents would have material bearing on assessee's case. Upon

perusal of orders of lower authorities, it is quite discernible that though these documents were placed before lower authorities, however, the same has not been appreciated in correct perspective. Therefore, it is a fit case for remand back to Ld. AO for fresh consideration. Resultantly, the matter of addition of Rs.96.50 Lacs as well as the addition of Rs.50 Lacs stand restored back to the file of Ld. AO for fresh adjudication in the light of documents placed by the assessee before us. Needless to add that reasonable opportunity of hearing shall be provided to the assessee. The assessee is directed to substantiate the source of cash deposit failing which Ld.AO shall be at liberty to proceed with the adjudication on the basis of material on record.

8. The appeal stand partly allowed for statistical purposes in terms of our above order.

Order pronounced on 04th January, 2022.

Sd/-
(V. DURGA RAO)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 04-01-2022
EDN/-

आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded 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