

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No.602/Chny/2021
निर्धारण वर्ष/Assessment Year: 2017-18

Smt. S. Gandhimathi,
29/1, Raj Nivas, Abirami Nagar,
Vinayagapuram, Vilankurichi
Main Road, Saravanampatti,
Coimbatore 641 035.
[PAN:AWFPG9991B]

Vs. The Income Tax Officer,
Non Corporate Ward 2(5),
Coimbatore.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri P.N. Rajan, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 21.03.2022
घोषणा की तारीख /Date of Pronouncement : 29.03.2022

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], New Delhi dated 29.10.2021 relevant to the assessment year 2017-18.

2. Brief facts of the case are that as per the information available with the Department revealed that the assessee has total credits of ₹.14,90,000/- during the financial year 2016-17 (including cash deposits

of ₹.14,80,000/- during demonetisation period) in her SB account maintained with Lakshmi Vilas Bank, Siddhapudur, Coimbatore. A notice under section 142(1) of the Income Tax Act, 1961 ["Act" in short] dated 12.03.2018 was issued and duly served on the assessee on 16.03.2018 to the assessee requiring her to file the return of income for the assessment year 2017-18 on or before 31.03.2018. However, the assessee has failed to file the return of income till 30.08.2019 i.e. till completion of assessment under section 144 r.w.s. 144(1)(b) of the Act. Moreover, the assessee has not her income tax returns for any of the years so far. Further, notice under section 142(1) of the Act dated 10.06.2019 call for various details and requesting her to furnish certain information/details on or before 18.06.2019. The assessee filed a letter dated 20.07.2019 wherein she has claimed that she has obtained jewel loan of ₹.2,50,000/- on 12.12.2016 and ₹.12,30,000/- from various persons totalling to ₹.14,80,000/- which was deposited by her in cash during demonetisation period in her above bank account. Summons under section 131 of the Act was issued to the assessee on 23.07.2019 requiring her to appear before the Assessing Officer on 05.08.2019, wherein, it was proposed to complete their income tax assessment for the assessment year 2017-18 under section 144 of the Act based on the

materials available on record. In response to the summons under section 131 of the Act, the assessee appeared and a statement was recorded from her on 25.07.2019. Summons under section 131 of the Act were also issued to the addresses of various parties as furnished by the assessee on 05.08.2019 and recorded the statement from them. After considering the statements recorded from various parties and rejecting the same, the Assessing Officer has completed the assessment under section 144 r.w.s. 144(1)(b) of the Act by assessing the amount of ₹.12,00,000/- under section 69A of the Act in the hands of the assessee Smt. S. Gandhimathi as “income from other sources” and brought to tax. On appeal, by observing that the onus cast upon the assessee has neither been discharged at the assessment stage nor at the appellate stage, the Id. CIT(A) confirmed the addition made by the Assessing Officer.

3. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee, by referring to the grounds of appeal of the assessee, prayed for deleting addition of ₹.12,00,000/-, which was made under section 69A of the Act.

4. On the other hand, the Id. DR strongly supported the orders of

authorities below.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case, admittedly, despite of service of notice under section 142(1) of the Act to the assessee requiring her to file her return of income for the assessment year 2017-18 on or before 31.03.2018, the assessee has failed to file the return of income till conclusion of the assessment and thereby, the Assessing Officer has completed the assessment under section 144 r.w.s. 144(1)(b) of the Act.

6. So far as claim of the assessee of having received loan amounts from various parties, the onus cast upon the assessee to establish the credit worthiness of the loan creditors with concrete evidences, which was not discharged by the assessee. Simple confirmation of the loan creditors alone are not sufficient to arrive at a conclusion that the creditors have lend loan amount to the assessee. Thus, in order to meet the ends of natural justice, we are of the opinion that the assessee shall be given an opportunity to discharge the onus cast upon her to establish credit worthiness of the loan creditors with evidences. Accordingly, we remit the matter back to the file of the Assessing Officer to decide the issue afresh in accordance with law after affording an opportunity of being heard to the

assessee by considering the evidences as may be furnished by the assessee. The assessee is also directed to establish the credit worthiness of the loan creditors with evidences before the Assessing Officer.

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

Order pronounced on 29th March, 2022 at Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 29.03.2022

Vm/-

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.