

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' 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. 374/Chny/2020
निर्धारण वर्ष/Assessment Year:2010-11

Smt. Kanchanabai Chordia,
No. 18, Ramanuja Street,
Sowcarpet, Chennai 600 079.
[PAN:AAEPC5069M]

The Income Tax Officer,
Vs. Non Corporate Ward 5(1),
Chennai 600 006.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri T. Vasudevan, Advocate
प्रत्यर्थी की ओर से/Respondent by : Ms. Helen Ruby Jesindha, JCIT
सुनवाई की तारीख/ Date of hearing : 12.04.2022
घोषणा की तारीख /Date of Pronouncement : 05.05.2022

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) 5, Chennai, dated 05.12.2019 relevant to the assessment year 2010-11.

2. Brief facts of the case are that the assessee filed her return of income for the assessment year 2010-11 on 31.03.2011 declaring total income of ₹.1,99,990/- and the same was processed under section 143(1) of the Income Tax Act, 1961 ["Act" in short]. Subsequently, the return was selected for scrutiny and after following due procedures, the Assessing Officer has completed the assessment under section 143(3) of the Act dated 26.03.2013

by assessing the total income of the assessee at ₹.44,10,951/- after making addition towards disallowance of deduction claimed under section 35(1)(iii) of the Act of ₹.2,50,000/- and addition towards long term capital gains tax. On appeal, the Id. CIT(A) dismissed the appeal of the assessee.

3. On being aggrieved, the assessee is in appeal before the Tribunal. By relying upon the grounds of appeal, the Id. Counsel for the assessee prayed for grant of relief under section 54 of the Act.

4. On the other hand, the Id. DR strongly supported the order passed by the Id. CIT(A).

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case, the assessment under section 143(3) of the Act was completed on 26.03.2013 by determining the total income of the assessee at ₹.44,10,950/-. In the appellate order, the Id. CIT(A) has noted that the assessment was reopened under section 147 of the Act and the reassessment was completed on 19.12.2017 determining total income at ₹.51,89,118/-. The said reassessment completed under section 147 of the Act dated 19.12.2017 was challenged before the Id. CIT(A), who on due consideration has dismissed the appeal. On further appeal, vide order in I.T.A. No. 2680 & 2681/Chny/2018 dated 14.08.2019, the Tribunal has allowed the appeal.

Thereafter, the assessee has also moved a miscellaneous petition before the ITAT with a prayer to consider the relief claimed under section 54, which hitherto not adjudicated in the order passed on 14.08.2019. Therefore, the issue of claim of relief under section 54 of the Act is pending before the ITAT by way of miscellaneous petition. Meanwhile, the assessee has filed another appeal against the original assessment order passed under section 143(3) of the Act on 26.03.2013 before the Id. CIT(A) belatedly after a delay of 2002 days. However, the Id. CIT(A) has noted from the grounds taken and the issues raised are already adjudicated in the appeal filed against the order under section 147 of the Act passed on 19.12.2017 by the Id. CIT(A) vide his order dated 29.06.2018 and thereafter by ITAT in its order dated 14.08.2019. Therefore, the Id. CIT(A) was of the opinion that the assessee cannot agitate once again on the same issues, which are already adjudicated. Hence the appeal filed now before the Id. CIT(A) against the original assessment order under section 143(3) of the Act dated 26.03.2013 is not maintainable in law. Since the assessee has already filed MP before the ITAT for adjudication of relief claimed under section 54 of the Act, the Id. CIT(A) dismissed the appeal filed against the assessment under section 143(3) of the Act order dated 26.03.2013 on the grounds of both delay and non-maintainability.

6. Since the assessee has initially preferred an appeal against the reassessment order under section 147 of the Act dated 19.12.2017 against

which, the assessee filed an appeal before the Id. CIT(A) and the same was concluded by the Id. CIT(A) vide his order dated 29.06.2018, against which, the appeal filed before the ITAT has also been concluded vide Tribunal's order in I.T.A. No. 2680 & 2681/Chny/2018. Since the assessee has again filed another appeal against the original assessment order under section 143(3) of the Act dated 26.03.2013 with a delay of 2002 days by raising the issues already adjudicated in the appeal filed against the order under section 147 of the Act, we are of the opinion that the Id. CIT(A) has correctly dismissed the appeal on both the counts of delay and non-maintainability of the appeal filed by the assessee. We find no reason to interfere with the order passed by the Id. CIT(A).

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on the 05th May, 2022 in Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 05.05.2022

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.