

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'D' 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. 886/Chny/2020
निर्धारण वर्ष/Assessment Year:2015-16

Shri G. Rushkin Roy,
No. 11, Asaripallam,
Asaripallam Post,
Kanyakumari District – 629 201.

The Income Tax Officer,
Vs. Ward 3,
Nagercoil.

[PAN:AXFPR1544N]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Raghav Rajeev Menon, Advocate
प्रत्यर्थी की ओर से/Respondent by : Dr. S. Palanikumar, CIT
सुनवाई की तारीख/ Date of hearing : 14.03.2022
घोषणा की तारीख /Date of Pronouncement : 08.06.2022

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. Principal Commissioner of Income Tax/CIT-1, Madurai, dated 04.05.2020 relevant to the assessment year 2015-16.

2. The appeal filed by the assessee is delayed by 121 days in filing the appeal before the Tribunal due to outbreak of COVID-19 pandemic and accordingly, the delay is condoned and admitted the appeal for adjudication.

3. Brief facts of the case are that the assessee is an individual and filed his return of income for the assessment year 2015-16 on 28.08.2015 admitting total income of ₹.3,00,000/-. The return filed by the assessee was processed under section 143(1) of the Income tax Act, 1961 ["Act" in short] on 27.10.2015. Subsequently, the case was selected for scrutiny and the assessment was completed under section 143(3) of the Act dated 27.06.2017. During the course of assessment proceedings, the Assessing Officer has noticed that there was a cash deposits of ₹.1,06,96,700/- in various bank for which he has explained that all the cash deposits at various banks are fee receipts collected from students towards uniform fee, note book fee, school van fee and building fee and produced details before the Assessing Officer. The Assessing Officer, after verifying the receipts and payments accounts for the period from 01.04.2014 to 31.03.2015 and personal accounts, estimated 8% of total cash deposits as assessee's income and added to the total income of the assessee. Further, on verification of bank statement, the Assessing Officer noted that the assessee has interest receipts of ₹.8,55,736/- and added to his total income.

3.1 Thereafter, the Id. PCIT issued notice under section 263 of the Act on 05.02.2020 on the ground that the Assessing Officer has not examined the issue properly and therefore, the order passed by the Assessing Officer is erroneous and prejudicial to the interest of the Revenue. The assessee has submitted before the Id. PCIT/CIT that the source of bank deposits are fees collected from students towards uniform fee, note book fee, school van fee and building fee and produced details, which were verified by the Assessing Officer with reference to the receipts, registers, etc. It was further submitted before the Id. PCIT/CIT that the fees are all collected and deposited in his bank account and the Assessing Officer has examined the same and estimated the income at 8%. However, the Id. PCIT/CIT has not accepted the assessment order on the ground that the assessee is the Managing Trustee of "Belfield Educational Trust, which is registered under section 12AA of the Act. The assessee, who is the managing trustee and collected fee from the students and deposited his personal account, he should have been deposited to school account and in his personal account and therefore, directed the Assessing Officer to make afresh after verification of the details.

4. Aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the assessee is the managing trustee of the school and collected uniform fee, note book fee, school van fee and building fee and these are other fees and not school term-fee. The regular payment of fee has to go to school account and fees collected by the assessee is other than regular term-fee and deposited in his personal account. After examining the same, the Assessing Officer has determined the income of the assessee and completed the assessment order. In view of the above, it was submitted that the revision order passed under section 263 of the Act is not correct.

5. On the other hand, the Id. DR has submitted that as per proviso to section 263 of the Act, the Id. PCIT/CIT has to satisfy whether the assessment order passed by the Assessing Officer is correct or not. In this case, the Assessing Officer has not examined the bank deposit and strongly supported the order passed under section 263 of the Act.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The return filed by the assessee was selected for scrutiny for the reason that the

ash deposits in savings bank account(s) is more than the turnover and issued notice under section 143(2) of the Act. Against the above notice, the AR of the assessee produced copy of the bank statements, various registers, bills and other relevant particulars related to the assessment year 2015-16. The Assessing Officer noted that there was cash deposits of ₹.1,06,96,700/- in various bank for which, the assessee has explained that all the cash deposits at various banks are fee receipts collected from students towards uniforms fee, note book fee, school van fee and building fee. The Assessing officer has verified all the details with reference to the receipts, registers, etc. It is an admitted fact that nowhere in the assessment order it is mentioned that the regular school term-fees/tuition fees collected were deposited in assessee's personal account. After examining and verifying all the details and registers, etc., during the financial year, the Assessing Officer has determined 8% of total cash deposits as assessee's income and brought to tax. Moreover, after further verification of bank statements, the Assessing Officer has noted that the assessee has interest receipts of ₹.8,55,736/- and the same was also treated as income of the assessee and brought to tax. Thus, we find error in the assessment order passed by the Assessing Officer. In view of the

above, the revision order passed by the Id. PCIT/CIT under section 263 of the Act is quashed.

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

Order pronounced on the 08th June, 2022 in Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 08.06.2022

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.