

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 3190/Chny/2019
(निर्धारण वर्ष / Assessment Year: 2016-17)

Sundararaj Subhashree 15, 2 nd Floor, Annamalai Nagar Main Road, Annamalai Nagar, Trichy - 620 018.	बनाम/ Vs.	ACIT Circle 3(1), Trichy - 620 015.
स्थायी लेखा सं./जीआइ आर सं./ PAN/GIR No. AUHPS-5310-F		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri R. Kumar, Advocate
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri Sheila Parthasarathy, Addl. CIT

सुनवाई की तारीख/ Date of Hearing	:	16.06.2022
घोषणा की तारीख / Date of Pronouncement	:	22.06.2022

आदेश / O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by assessee is arising out of the order of Commissioner of Income Tax (Appeals)-1, Trichy in ITA No. 131/2018-19/CIT(A)-1/TRY vide order dated 17.09.2019. Assessment was framed by ACIT, Circle 3(1), Trichy for the AY 2016-17 u/s. 143(3) of the Income-tax Act, 1961 (herein after referred to as 'the Act') vide order dated 12.12.2018.

2. The assessee has raised the issue of violation of principle of natural justice by CIT(A) not providing opportunity to counter the remand report and in the remand report also AO has not considered the details. For this assessee has raised the following three grounds which are reproduced as under:

"1. The Learned Commissioner Appeals has not given an opportunity to prove the remand report of the AO is given without considering the details filed.

2. The Learned Commissioner Appeals has not considered the details filed by the assessee's representative by negating the remand report.

3. The Learned CIT(A) failed to note that the Assessee has been harassed by issuing personal summons to appear before him and put her to hardship this is because he has passed the order and do not want to go back on the order."

3. We have heard the rival contentions and gone through the facts and circumstances of the case. We noted that the assessee before us filed the details as under:

Sl.No	Particulars
1	Subhasree Cash Deposit in ICICI Savings Bank Account No. 613401519378 – Reconciliation statement
2.	ICICI Saving Bank A/c statement
3.	Shree Enterprises – Prop: Mr. P. Sundararaj (Spouse) Allahabad Bank, Thillai Nagar, Trichy A/c No. 50078492579
4.	Subham Freight Carriers – Prop: Mr. P. Sundararaj (Spouse) Allahabad Bank, Thillai Nagar, Trichy A/c No. 50018683382
5.	Subham Tours and Travels – Propx: Mrs. Sundararaj Subhashree (Appellant) HDFC Bank A/c. - 00582000004218

4. We note from the assessment order, remand report received by CIT(A) from the AO dated 27.05.2019 that the assessee is unable to explain the cash deposit made in ICICI bank i.e., savings bank account to the tune of Rs. 1,47,75,000/-. The assessee time and again changed stand. Firstly stated that the payments to lorry driver were made out of personal account of the

assessee and all the payments were duly accounted in the books of accounts of M/s. Subham Freight Carriers (India) Pvt. Ltd. As regards to deposit in ICICI savings bank account of the assessee it was explained that money stated to be collected by her from customers were deposited in bank account and the same were recorded in the books of accounts of M/s. Subham Freight Carriers (India) Pvt. Ltd. Again she changed stand that the entire amount deposited in the bank account of the assessee could be matched with the amounts that withdrawn from the bank account of assessee's husband and his business current account. The CIT(A) recorded that even before the AO during remand proceedings, the assessee could not explain and pleaded that the assessee has lost her pen drive containing cash book of M/s. Subham Freight Carriers (India) Pvt. Ltd. The CIT(A) also noted that the assessee has not furnished day-to-day reconciliation and cash withdrawn and cash deposits and hence he confirmed the addition made by AO of cash deposits in ICICI at Rs. 1,47,75,000/- by observing in para 12 & 12(a) as under:

" 12. A copy of this remand report was furnished to assessee by this office letter dated 07.08.2019 and assessee was asked to give comments by 14.08.2019. On 13.08.2019 assessee filed letter seeking more time. Assessee has furnished reply dated 19.08.2019 as per which photocopies of various bank accounts operated by assessee. Assessee's husband and her proprietorship from and also of M/s. Subham Freight Carriers (India) Pvt. Ltd. have been furnished.

12(a) The main thing to be noticed is that even at this juncture the assessee has not furnished date to date reconciliation of cash withdrawals and cash deposited. The assessee now claims that she had made a mistake in issuing a letter by which she had shown cash deposited as that withdrawn from bank account of her spouse. This is second change of stand-by assessee. Initially the cash deposited was claimed to be from company and this was changed later to be sourced from her husband. Perusal of the details furnished show that the total cash withdrawn from 07.04.2015 to 24.03.2016 from 5 bank account totals Rs. 32,543,000/- and the total deposits in Shubham Tours and Travel HDFC account is Rs. 44,70,000/- and that in assessee is personal bank

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account the amount is Rs. 1,30,25,000/-. Even at this point there is no data of date to date reconciliation or even of aggregate withdrawals/deposits and it appears assessee has nothing more to say in this regard."

5. Now before us assessee filed reconciliation statement and the above documents mentioned in para 3, when these are confronted to Ld. SR. DR, she stated that these are new documents and now cannot be taken into cognizance. In the facts of entirety of assessee case, we are of the view that in the interests of justice to the assessee, we should remand this issue back to the file of the AO denovo, who will decide the issue after taking all the evidences into consideration including the present reconciliation statement submitted before us. The assessee will cooperate with the Assessing Officer and appear before the AO as and when called and will get the assessment finalized at the earliest. The orders of the lower authorities are set aside and matter remand back to the file of the AO.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 22nd June, 2022.

Sd/-
(मनोज कुमार अग्रवाल)
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

चेन्नई / Chennai; दिनांक / Dated : 22-06-2022

JPV

आदेश की प्रतिलिपि अग्रेषित/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