

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' 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 Nos. 213, 214, 215 & 216/Chny/2018
(निर्धारण वर्ष / Assessment Years: 2009-10, 2010-11, 2011-12 &
2012-13)

T.D. Prabhavathi, No. 61, D.D. Nagar Bus Stop, Kunnavalam Post, (Chennai to Tirupathi National Highway), Tiruvallur Tk & Tiruvallur Dt. 631 210.	बनाम/ Vs.	ACIT, Central Circle II(3), No. 46, Mahatma Gandhi Road, Nungambakkam, Chennai – 600 034.
स्थायी लेखा सं./जीआइ आर सं./ PAN/GIR No. AAIPP-0108-J		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri Philip George, Advocate
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri M. Rajan, 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:

These four appeals by assessee are arising out of the different orders of Commissioner of Income Tax (Appeals)-18, Chennai in ITA Nos. 335 to 337 & 338/2015-16 vide orders dated 26.09.2017 & 20.09.2017. Assessments were framed by ACIT, Central Circle II(3), Chennai for the AYs 2009-10, 2010-11,

2011-12 & 2012-13 vide orders of even dated 27.03.2014 u/s. 153C r.w.s. 143(3) of the Income-tax Act, 1961 (herein after referred to as 'the Act').

3. At the outset, Ld. Counsel for the assessee stated that there is one common issue in all these four appeals of assessee is as regards to agricultural income. Further Ld. Counsel stated that in ITA NO. 213/Chny/2018 one more issue is as regards to LIC premium paid and in ITA NO. 216/Chny/2018 one more additional issue is as regards to unexplained jewellery. Ld. Counsel for the assessee Shri. Philip George, filed copy of Tribunals decision in assessee's husband case in ITA No. 1411/Chny/2017 for AY 2010-11 vide order dated 22.03.2018, wherein the Tribunal has set aside the assessment denovo and further that order was followed again by the coordinate bench of this Tribunal in assessee's son and daughter in the case of Ms. T.D. Banu vs ACIT in ITA Nos. 1276, 1277, 1278 & 1279/Chny/2018 & T.D. Tataji vs ACIT in ITA No. 1392/Chny/2017 & 1275/Chny/2018 vide order dated 28.02.2022, wherein the appeals were set aside vide para 7 as under:

"7. After hearing rival contentions and going through the entirety of facts, since in the appeals of Shri. T.D. Naidu in ITA No. 1411/Chny/2017 order dated 22.03.2018, the Tribunal has already remanded back the matter to the file of the AO, we are also inclined to remit the matter back to the file of the AO in all these appeals after condoning the delay in the above mentioned five appeals. Hence, we set aside the orders of the lower authorities in all these appeals and remand the matter back to the file of the AO for fresh adjudication after giving reasonable opportunity of being heard to the assessee."

Ld. Counsel stated that in assessee's husband case and in the case of daughter and son matter has been remitted back where issue was agricultural income

and that of LIC payment. He stated that only one new issue in one year i.e., AY 2012-13 in ITA No. 216/Chny/2018 is as regards to unexplained jewellery found during the course of search where the same is declared under VDIS or not is the issue. Ld. Counsel stated that in all these appeals there was no proper representation as the assessee's husband was in judicial custody during the period. This fact was noted by Tribunal in assessee's husband case in ITA No. 1411/Chny/2017 (supra), wherein this fact is noted as under:

"3. The AR submitted that the assessee was in judicial custody as he could not get his bail during the appeal proceedings and was still in judicial custody till the appeal is filed before this tribunal. The CIT(A) dismissed the appeal without effective representation when the assessee was in judicial custody which was known to him. Getting an unfettered bail is the only way to effectively represent himself with free state of mind and in this case it was absent, while the CIT(A) dismissed the appeal without effective representation. Per contra, the DR supported the order of the CIT(A)."

Agreeing to the above facts Ld. Counsel stated that in case these appeals of assessee are also set aside the consistent view may be taken on this issues.

4. When these facts were confronted, Ld. CIT(DR) Shri. M. Rajan, contested the setting aside of the appeals to the file of the Ld. AO and stated that there is a distinction in assessee's husband case and assessee's case because assessee's husband was in judicial custody but not the assessee. He also further stated that the assessee do not own any agricultural land, whereas the assessee's husband owned agricultural land about seven acres. Countering the same Ld. Counsel for the assessee Mr. Philip George filed a copy of lease agreement and stated that the assessee is holding leased land of 20 acres for

cultivation of which agricultural produce was grown and earned agricultural income. Ld. CIT(DR) could not controvert the above facts situation.

5. After hearing rival contentions and going through the facts of the case, we are inclined to set aside the orders of the lower authorities and remand the matter back to the file of the AO for re-deciding the issue on merits. Accordingly, all the orders of the lower authorities are set aside and remand the matter back to the file of the AO for fresh adjudication.

6. In the result, all the four appeals filed by the assessee are 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