

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' 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.: **2894/CHNY/2019**
निर्धारण वर्ष /Assessment Year: 2011-12

Shri M. Ganesh,
No.32, Valudavur Road,
Pettaianchatram,
Pondicherry – 605 009.

The ACIT,
vs. Pondicherry Circle,
Pondicherry.

PAN: AAPPM 2861A

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri S. Sridhar, Advocate
: Shri D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing

: 11.07.2022

घोषणा की तारीख/Date of Pronouncement

: 13.07.2022

आदेश /O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of order of the Commissioner of Income Tax -Puducherry, in ITA No.197/CIT(A)-PDY/2018-19, order dated 25.09.2019. The assessment was framed by the ACIT, Pondicherry Circle, Pondicherry for the assessment year 2011-12 u/s.143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 31.12.2018.

2. The only issue in this appeal of assessee is as regards to the order of CIT(A) confirming the action of AO in sustaining the addition on cash deposits in the bank account presuming the same as unexplained income u/s.68 of the Act amounting to Rs.40,81,000/-. For this, assessee has raised various grounds, which need not to be reproduced.

3. The Id.counsel for the assessee first of all took us through the order of CIT(A) and stated that this cash deposit of Rs.40,81,000/- is arising out of gross receipts of the assessee's contractual receipts which are declared under the provisions of section 44AD of the Act. The Id.counsel stated that the assessee is engaged in private contract business of constructing residential building and the source of this cash deposit relates to assessee's business. The CIT(A) decided the issue without considering the plea raised by assessee and by a non-speaking order and he drew our attention to the following para 5.4 of the CIT(A) order:-

“5.4 I have examined the facts of the case. It is seen that appellant had filed Income Tax return for the relevant period on 18/03/2013 wherein he has not shown any income from business. Only in the revised return filed in response to the notice u/s.148 the appellant showed business receipts of 40,81,000/- which was done to match the cash deposit detected by the Income Tax Department. In the above facts and circumstances, I am unable to accept the arguments given on behalf of the appellant. There is no material to link the cash deposit with any disclosed business receipts.”

4. When these facts were confronted to Id. Senior DR that the order of CIT(A) is non-speaking and even the CIT(A) has not considered how the receipts are not related to assessee's contractual business, he could not controvert the same. The CIT(A) is duty bound to investigate into the matter and ask the assessee to correlate these receipts with the cash deposits in the bank. As the order of CIT(A) is non-speaking, we set aside the order of CIT(A) and remand the issue back to his file for fresh adjudication. The assessee will produce evidences as to how this cash deposit of Rs.40,81,000/- is related to assessee's contractual receipts. The CIT(A) will examine the same and decide the issue afresh.

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

Order pronounced in the open court on 13th July, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 13th July, 2022

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |