

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

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.512/Chny/2022
(निर्धारण वर्ष / Assessment Year: 2012-13)

Shri Velusamy Gunasekar No.450/9, Pari Nagar, Chinnandan Kovil Road, Karur – 639 001.	बनाम/ Vs.	ACIT, Circle-2(1), Trichy.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AEZPG-8153-R		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri N. Quadir Hoseyn (Advocate) – Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri Ravindra T. Mishra (JCIT) – Ld. DR
सुनवाई की तारीख/ Date of Hearing	:	21-07-2022
घोषणा की तारीख / Date of Pronouncement	:	21-07-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2012-13 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 10-05-2022 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 31-03-2015. The grounds taken by the assessee are as under:

1. The order of the Commissioner of Income Tax (Appeals), confirming the addition of Rs.20,00,000/-, is contrary to law, erroneous and unsustainable on the facts of the case.

2. The Commissioner of Income Tax (Appeals) failed to appreciate that there was neither any basis nor any reason attributed by the Assessing Officer for making such an addition hence the addition sustained was untenable in law as well as on facts.

3. The Commissioner of Income Tax (Appeals) further failed to appreciate that no mistake was pointed out by the Assessing Officer in the maintenance of accounts and in the absence of any mistake, the profit disclosed by the assessee ought to have been accepted and hence no addition was warranted.

4. The Commissioner of Income Tax (Appeals) further failed to appreciate comparison of earlier years' details with reference to the current assessment year could not be the reason for making any addition, each assessment year being a separate unit.

5. The Commissioner of Income Tax (Appeals), in any view of the matter and having due regard to the method of accounting followed by the assessee, ought to have accepted the explanation and case of the assessee and held that there was no case whatsoever for addition.

As evident, the assessee is aggrieved by adhoc addition of Rs.20 Lacs. The Ld. AR assailed the addition on the ground that estimated additions have been made without pointing out any defect in the books of accounts. The Ld. Sr. DR supported the assessment framed by Ld. AO. Having heard rival submissions, our adjudication would be as under. The assessee being resident individual is stated to be engaged in money lending business.

2. The assessee was scrutinized to verify the large cash deposits. In support of cash deposits, the assessee furnished books of accounts, bills and vouchers. However, Ld. AO noted that for AY 2010-11, for a capital of Rs.2.49 Crores the assessee disclosed income of Rs.22.98 Lacs. Similarly for AY 2011-12, for a capital of Rs.3.52 Crores, the assessee was disclosed for Rs.50.34 Lacs of income. However, for this year, the assessee reflected meagre income of Rs.6.10 Lacs against capital of Rs.4.31 Crores. Considering the deficiency, Ld. AO made adhoc estimated addition of Rs.20 Lacs of the income of the assessee.

3. Though the assessee preferred further appeal, however the Ld. CIT(A) dismissed the appeal as under:

6.2 From the income and expenditure account for the year, it is observed that an amount of rental income of Rs 13,33,397/- is credited to the account. Therefore, there will be loss from the money lending business if rental income is excluded from the revenue. The appellant has shown interest expenses of Rs 41,33,184/- against the interest receipt of Rs 34,52,271/- for the year. The balance sheet of the appellant shows outstanding secured loan of Rs 1.77 crore and unsecured loan of Rs 4.02 crore for which the appellant is paying interest and has claimed interest expenses of Rs 41,33,184/-. Thus, it is obvious that the appellant must have used these loan fund for his money lending business and earned interest income. But the actual picture shows that the appellant has incurred loss from money lending business. Under the facts and circumstances there can be a reasonable presumption that the appellant has not used the loan amount for his business purpose and consequently the entire interest expenses of Rs 41,33,184/- may not be wholly and exclusively for the purpose of business.

6.3 Considering all these aspects, the observation of the AO as regards dwindling net profit of money lending business of the assessee in comparison to earlier years constituting a deficiency, is found to be not irrelevant. The appellant was expected to explain the reason for incurring loss first time from his money lending business, which has not been done. It is also observed that in his other money lending business Sree Associates, the appellant has shown a net profit of Rs 10,25,606/- against total interest receipt of Rs 12,23,000/-. Under these facts and circumstances, the approach of the AO to make addition cannot be faulted.

Aggrieved, the assessee is in further appeal before us.

4. It is true that the assessee has furnished books of accounts before Ld. AO and no defect was pointed in the same. However, another fact is that the assessee's income is not commensurate with profit rate shown in earlier years for which no plausible explanation was furnished by the assessee despite the fact that there was no change in the nature of business. In fact, it is the finding of Ld. CIT(A) that the assessee suffered loss in money lending business as against the fact that the assessee earned income from other concern which was in the same line of business. However, considering the entirety of factual matrix, we find that the

estimation of Rs.20 Lacs is on the higher side. We reduce the same to Rs.10 Lacs. The Ld. AO is directed to re-compute the income of the assessee.

5. The appeal stands partly allowed.

Order pronounced on 21st July, 2022.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / VICE PRESIDENT

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

चेन्नई / Chennai; दिनांक / Dated : 21-07-2022
EDN/-

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