

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.487/Chny/2021**
(निर्धारण वर्ष / **Assessment Year: 2012-13**)

M/s. Rasi Seeds Private Ltd. No.174, Sathyamurthy Road Ram Nagar, Coimbatore – 641 009.	बनाम/ Vs.	ACIT Central Circle-2, Coimbatore.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AABCR-2871-C		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Assessee by	:	Shri B. Ramakrishnan (F.C.A)-Ld. AR
प्रत्यर्थी की ओरसे/ Revenue by	:	Shri Guru Bashyam (CIT)-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	07-06-2022
घोषणा की तारीख / Date of Pronouncement	:	19-08-2022

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)-19, Chennai [CIT(A)] dated 16.09.2021 in the matter of assessment framed by Ld. Assessing Officer u/s 144 r.w.s. 147 on 22.12.2019. The assessee is aggrieved by confirmation of addition of Rs.4.91 Lacs. The grounds taken by the assessee read as under:

(1) The impugned order of the learned Commissioner of Income Tax (Appeals) 19, Chennai, upholding the validity of the reopening of the assessment u/s 148 of the

I.T.Act, 1961 by the AO is invalid, in the facts and circumstances of the case and in law.

(2) The learned CIT(A) ought to have held that the AO exceeded his jurisdiction u/s 147 of the I.T.Act, 1961 by issue of notice u/s 148 of the Act, that could not be complied with by the appellant, due to non-functioning of e-portal of the Income Tax Dept., in the facts and circumstances of the case and in law.

(3) The learned CIT(A) ought to have held that the notice u/s 148 of the Act dated 30.03.2019 on the basis of reasons recorded by the AO, without application of his mind, and without any tangible material for formation of belief required u/s 147 of the Act, was not valid, in the facts and circumstances of the case and in law.

(4) The learned CIT(A) ought to have held that the addition of Rs.4,91,000/- on the allegation of cash deposited by a third party, without making any enquiry by himself and without affording an opportunity to the appellant to cross examine the said third party, is not sustainable, in the facts and circumstances of the case and in law.

(5) The learned CIT(A) failed to appreciate that the facts in the decisions relied on by him were distinguishable from the facts in the case of the appellant and therefore the reassessment could not be sustained, in the facts and circumstances of the case and in law.

(6) For these and other additional grounds of appeal that may be adduced at the time of hearing, the order of the learned Commissioner of Income Tax (Appeals)-19, Chennai, is opposed to law and unsustainable in the facts and circumstances of the case.

2. The Ld. AR advanced arguments assailing the validity of reassessment proceedings as well as quantum addition on merits which has been controverted by Ld. CIT-DR. Having heard rival submissions and after perusal of case records, our adjudication would be as under.

Proceedings before lower authorities

3.1 The assessee is stated to be engaged in marketing of hybrid cotton seeds. The assessee group was subjected to search action u/s 132 on 10.01.2013. The assessee settled the assessment before Income Tax Settlement Commission (ITSC) on 27.03.2014 for AYs 2007-08 to 2013-14. However, the case was reopened on the allegation that unaccounted cash deposits were made by the assessee for Rs.4.91 Lacs in the account of M/s Satyamitra Vyaparaka Suraksha Seva Sehkarita Ltd. (SVSSSL). It was alleged that money so deposited in the Bank Account of that entity was returned to the beneficiaries through banking channels by way of accommodation entries against

commission. The assessee was held to be one of such beneficiaries and accordingly, the case was reopened vide notice u/s 148 dated 30.03.2019. The assessee did not file any explanation and accordingly, the amount of Rs.4.91 Lacs was added to the income of the assessee.

3.2 The assessee submitted that this year was subject matter of Settlement and therefore, no such addition could be made. The non-filing of return was sought to be explained by the fact that response from e-filing portal stated that 'no valid notice found for the selected AY and Section selected'. However, rejecting the same, Ld. AO added the amount of Rs.4.91 Lacs to the income of the assessee.

3.3 During appellate proceedings, the assessee refuted the allegations of Ld. AO and submitted that it was in no way connected with SVSSSL. Further no such addition could be made based on third party information. The assessee also assailed reassessment jurisdiction of Ld. AO.

3.4 The legal grounds were rejected by Ld. CIT(A) on the ground that AO received information about modus operandi adopted by that entity which led to formation of belief that the income escaped assessment. The assessee did not make true and full disclosed before ITSC. The issue of cash deposit was not subject matter of settlement. Finally, the legal grounds were dismissed. The quantum additions were also confirmed on the ground that no explanation was furnished by the assessee. Aggrieved, the assessee is in further appeal before us.

Our findings and Adjudication

4. We find that the assessment for AYs 2007-08 to 2013-14 were subject matter of settlement before Hon'ble ITSC vide order dated 14.09.2015. Subsequent to settlement, certain information came to the

possession of Ld. AO wherein it was alleged that the assessee deposited cash in the account of SVSSSL against which accommodation entries were received by the assessee. Even if the conclusion of Ld. AO is accepted, the entries so received would form part of assessee's books of accounts. In such a case, the assessee has already settled the assessment before Hon'ble ITSC and in our considered opinion, no further additions could be made in the hands of the assessee. Another angle is that the additions are merely on third party information without there being any positive evidence that the assessee deposited cash in the bank account of SVSSSL. It is trite law that no additions could be made on mere doubts, conjectures or surmises. Viewed from any angle, the impugned additions are not sustainable in the eyes of law. Since issue has been decided on merits, delving into the legal grounds have been rendered academic in nature.

5. The appeal stands partly allowed in terms of our above order.

Order pronounced on 19th August, 2022.

Sd/-
(MAHAVIR SINGH)
उपअध्यक्ष / VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखासदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 19-08-2022
EDN/-

आदेश की प्रतिलिपि ँ ग्रेषित/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