

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No.383/Chny/2022
निर्धारण वर्ष/Assessment Year: 2017-18

Shri Sankaran Purushothaman,
Chingumtharayil,
Thirumalabhagom P.O.,
Cherthala, Alappuzha 688 540,
Kerala.

[PAN:ADQPP2623R]

Vs. The Assistant Commissioner of
Income Tax, Central Circle 1(2),
Investigation Building, Mahatma Gandhi
Salai, Nungambakkam,
Chennai 600 034.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri K. Suresh Kumar Varma, C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri M. Rajan, CIT
सुनवाई की तारीख/ Date of hearing : 10.10.2022
घोषणा की तारीख /Date of Pronouncement : 28.10.2022

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 18, Chennai dated 22.03.2022 relevant to the assessment year 2017-18.

2. Facts are, in brief, that a search and seizure operation was conducted on 19.04.2017 in the case of Sree Gokulam Chit and Finance Company Private Limited, which is engaged in the business of chit fund. During the course of search operation, certain books of account were

found and seized. At the time of search operations, Shri M. Suresh Babu, AGM (legal) of M/s. Sree Gokulam Chit and Finance Company Pvt. Ltd was questioned about the details of payment made to Sri Sanakan and he has stated that the company Sree Gokulam Chit and Finance Company Private Limited has made certain payment to M/s Sri Narayana Guru Memorial Educational and Cultural Trust for the purpose of making some of the directors of Sree Gokulam Chit and Finance Company Private Limited, as Trustee of the above Trust. He further stated that Sri Sanakan was the Chairman of the above Trust and some cash was also paid. Since the information contained in the seized material has a bearing on the determination of the total income of the assessee, notice under section 153A r.w.s. 153C of the Act was issued on 10.07.2019 and served on the assessee on 15.07.2019. The assessee has not filed ROI in response to the notice under section 153A of the Act. A show cause notice was issued to the assessee on 25.11.2019 asking him to show cause as to why the amount of cash received at ₹.5.25 crores should not be assessed as unaccounted income for the assessment year 2017-18. In response, the assessee filed ROI on 05.12.2019 admitting total income of ₹.5,66,640/-, but did not file any explanation for the show-cause notice. Therefore, the Assessing Officer has concluded that the assessee has no explanation to offer and accordingly the assessment was completed

under section 144 r.w.s. 153A r.w.s. 153C of the Act dated 27.12.2019. On appeal, the Id. CIT(A) confirmed the order passed by the Assessing Officer.

3. On appeal before the Tribunal, the Id. Counsel for the assessee has submitted that the assessee is aged about 77 years, residing at Alapuzha, Kerala and not able to respond immediately in response to the show cause notice issued by the Assessing Officer to the assessee. He also submitted that the jurisdiction of the Assessing Officer, Chennai was challenged before the Id. PCIT under section 272 of the Act and the same is pending.

4. On the other hand, the Id. DR has submitted that the jurisdiction has been correctly assumed and the Assessing Officer as well as the Id. CIT(A) passed detailed order based on the seized materials in the absence of explanation given by the assessee.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. We find that, in response to the show cause notice, the assessee filed his return of income on 05.12.2019, but, no explanation was filed. Therefore, the Assessing Officer has concluded that the assessee has no explanation to

explain and therefore, the assessment was completed under section 144 r.w.s. 153A r.w.s. 153C of the Act dated 27.12.2019 i.e., within 22 days of filing the return of income. In our opinion, the Assessing Officer should have given one more notice to the assessee calling for explanation in respect of the alleged allegation of cash receipt. Thus, in the interest of natural justice, we are of the considered opinion that one more opportunity should be given to the assessee to substantiate his case before the Assessing Officer. In view of the above, we set aside the order passed by the Id. CIT(A) and remit the matter back to the file of the Assessing Officer for fresh adjudication in accordance with law after giving reasonable opportunity to the assessee.

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

Order pronounced on 28th October, 2022 at Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 28.10.2022

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy 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.