

आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' 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

Sr. No	Appeal Numbers	Assessment Years	Appellant	Respondent
1	ITA No.158/Chny/2021	2012-13	D. Jeyanandh, No.37, 2 nd Main Road, Kalaimagal Nagar, Ekattuthangal, Chennai – 600 032. [PAN: ARZPJ 2055Q]	Pr. CIT Central-2 Chennai.
2	ITA No.159/Chny/2021	2013-14		
3	ITA No.160/Chny/2021	2014-15		
4	ITA No.161/Chny/2021	2015-16		
5	ITA No.162/Chny/2021	2016-17		
6	ITA No.163/Chny/2021	2017-18		
7	ITA No.164/Chny/2021	2018-19		

अपीलार्थी की ओरसे/ Appellant by	:	Shri T. Vasudevan (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri S. Marudhu Pandyan (CIT)-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	22-12-2022
घोषणा की तारीख / Date of Pronouncement	:	22-12-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. In all the captioned appeals for Assessment Years (AY) 2012-13 to 2018-19, the assessee contest validity of revisional jurisdiction u/s 263 as exercised by learned Principal Commissioner of Income Tax, Central-2, Chennai [Pr. CIT] vide separate orders dated 11-03-2021. The assessment for all the years has been framed u/s 143(3) r.w.s. 153C. It is admitted position that the facts as well as issues are quite identical in all the years and adjudication in any one appeal shall apply to all the other appeals also.

2. The registry has noted delay of 28 days in the appeals, the condonation of which has been sought by Ld. AR. Considering the fact that the impugned orders were passed during lockdown situation arising of Covid-19 Pandemic, the delay is condoned and the appeals are admitted for adjudication on merits. Having heard rival submissions and after perusal of case records, the appeals are disposed-off as under.

3. In AY 2012-13, the assessee was assessed u/s 143(3) r.w.s. 153C on 31.12.2019. The assessment was framed pursuant to search action u/s 132 in the case of one Shri V. Dhivaharan (father of the assessee) on 09.11.2017. Based on search findings, the assessments were framed. The Ld. AO made additions of Rs.25.47 Lacs being cash deposit in the hands of one Shri G. Naveen Rakesh and also added the same on protective basis in the hands of the assessee. It has been submitted by Ld. AR that the appeal against the assessment so framed in the hands of the assessee is already under challenge before first appellate authority.

4. Subsequently, Ld. Pr. CIT, upon perusal of case records, sought revision of the order on the ground that investment in luxury cars made by the assessee was sourced out of cash deposit of Rs.25.47 Lacs in the bank account of Shri G. Naveen Rakesh and the same was erroneously treated as unaccounted income u/s 68 protectively instead of substantively. Accordingly, Ld. AO was directed to make the impugned additions substantively instead of protectively by making denovo assessment. Aggrieved as aforesaid, the assessee is in further appeal before us.

5. From the facts, it emerges that the revision has been sought only for the reason that the revisional authority consider it fit to make the additions substantively instead of protectively as made by Ld. AO.

However, it could be seen that the additions have already been made protectively and the same are under challenge before first appellate authority whose powers are co-extensive with the powers of AO. In such a case, no prejudice could be said to have been caused to the revenue since the addition has already been made in the hands of the assessee protectively. The reasoning of Ld. Pr. CIT is that the same was to be made substantively. In such a situation, the assessment framed by Ld. AO could not be said to be prejudicial to the interest of the revenue and the twin conditions i.e., erroneous and prejudicial to the interest of the revenue to invoke the provisions of Sec.263 could not be said to have been fulfilled by revisional authority. Accordingly, the impugned order could not be sustained in law. By quashing the same, we allow the appeal of the assessee.

6. Since the basis of revision in all the other years is quite identical, our adjudication as above shall mutatis mutandis apply to all the other appeals also. Consequently, the impugned orders are quashed in similar manner.

7. All the appeals stand allowed in terms of our above order.

Order pronounced on 22nd December, 2022.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / VICE PRESIDENT

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

चेन्नई / Chennai; दिनांक / Dated : 22-12-2022
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