

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
**Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member**

आयकर अपील सं./I.T.A. No.596/Chny/2020
निर्धारण वर्ष/Assessment Year: 2011-12

Shri S.A. Imamudeen,
10B, Sengaluneerodai Street,
Kanchipuram, Tamil Nadu 631 502.
[PAN:ABHPI2997N]

Vs. The Income Tax Officer,
Ward 2, Kanchipuram.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri T. Vasudevan, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri P. Sajit Kumar, JCIT
सुनवाई की तारीख/ Date of hearing : 11.01.2023
घोषणा की तारीख /Date of Pronouncement : 13.01.2023

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) 7, Chennai dated 07.03.2020 relevant to the assessment year 2011-12.

2. Brief facts of the case are that on verification of the ITD application, the Assessing Officer has noted from AIR information that the assessee has deposited cash to the tune of ₹.15,08,200/- during the financial year 2010-11, but, the assessee has not filed return of income for the assessment year 2011-12. To verify the genuineness of the transaction,

the case was reopened under section 147 of the Income Tax Act, 1961 ["Act" in short]. Notice under section 148 of the Act was served on the assessee on 06.12.2017. Notices under section 142(1) of the Act dated 29.01.2018 and under section 143(2) of the Act dated 08.06.2018 were also served on the assessee calling for details/documents, but there was no response from the assessee. Notice under section 133(6) of the Act was sent to the Bank Manager, Axis Bank, Kancheepuram calling for bank statement. On perusal of the bank statement, it was confirmed that the receipts was ₹.24,41,804/- maintained with Axis Bank account. Penalty notices under section 271(1)(b) of the Act levying penalty of ₹.10,000/- with the demand notice under section 156 of the Act was also issued. Since there was no response, the Assessing Officer proceeded to conclude best judgement assessment under section 143(3) r.w.s. 144 of the Act dated 27.12.2018 by assessing total income of the assessee at ₹.24,41,804/- and brought to tax. On appeal, by granting relief to the extent of ₹.1,07,905/-, the Id. CIT(A) confirmed the addition to the extent of ₹.23,33,899/-.

3. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the assessee was employed in Kuwait between 2015 - 2018 and came home for limited

period. During the period of his stay he did not receive any notice or any notice was served on him. It was further submission that the credit in the bank account represented cheques and cash of his brother's business, jewel loans credit, account transfers from his sister who was living abroad and redeposit of cash withdrawn from bank accounts. By filing various details, the Id. Counsel for the assessee prayed for deleting the addition confirmed by the Id. CIT(A).

4. On the other hand, the Id. DR strongly supported the order passed by the Id. CIT(A).

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including paper book filed by the assessee. Against the assessment order, the assessee preferred an appeal before the Id. CIT(A) by furnishing certain documents. Accordingly, the Id. CIT(A) called for remand report from the Assessing Officer. After considering the remand report and explanation against the remand report, the Id. CIT(A) has allowed a sum of ₹.1,07,905/- as proposed by the Assessing Officer in the remand report. We have perused the remand report as reproduced in the appellate order. We have also gone through bank statements of the assessee and his sister Farzana Parveen S. A and find that on various occasions the

assessee's sister has transferred an amount of ₹.5,51,000/- [₹.1,000/- ₹.3,50,000/- & ₹.1,00,000/- + ₹.1,00,000/-] to assessee's SBI account, which was confirmed by her through e-mail. Further, it was the contention of the assessee before the authorities below that he has availed jewel loans and credit to the extent of ₹.3,45,086/-. Moreover, there were withdrawals and out of withdrawal, cash redeposited cannot be ruled out. Under the above facts and circumstances, against the confirmation of addition by the Id. CIT(A) of ₹.23,33,899/-, we allow relief to the extent of ₹.13,00,000/- and addition to the extent of ₹.10,33,899/- stands sustained.

6. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced on 13th January, 2023 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 13.01.2023

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.