

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' 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.1116/Chny/2022
निर्धारण वर्ष/Assessment Year: 2011-12

Shri Singaram Ramasamy,
Plot No. 5, 1st Cross, Bankers Colony,
KLumaran Nagar, Trichy 620 017.

Vs. The Income Tax Officer,
Ward 3(2),
Trichirapalli.

[PAN:AJRPR3790A]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri M. Karunakaran, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT
सुनवाई की तारीख/ Date of hearing : 23.01.2023
घोषणा की तारीख /Date of Pronouncement : 31.01.2023

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), National Faceless Appeal Centre (NFAC), Delhi dated 30.07.2022 relevant to the assessment year 2011-12.

2. The appeal filed by the assessee is delayed by 92 days in filing the appeal, for which, the assessee has filed a petition for condonation

of the delay in the form of an affidavit, to which; the Id. DR has not raised any serious objection. Consequently, since the assessee was prevented by sufficient cause, the delay in filing of the appeal stands condoned and the appeal is admitted for adjudication.

3. Brief facts of the case are that from the records available with the Department, the Assessing Officer has noticed that the assessee had entered into financial transaction during the financial year 2010-11 and not filed his return of income for the assessment year 2011-12. Since there was reasons to believe that income chargeable to tax had escaped assessment, the case of the assessee was reopened under section 147 of the Income Tax Act, 1961 ["Act" in short] and generated notice under section 148 of the Act and duly served on the assessee. Since there was no response/compliance from the assessee , a show cause notice dated 21.11.2018 was generated and served on the assessee requiring to show cause why the assessment for the AY 2011-12 should not be completed under section 144 of the Act after making additions based on the material facts available on record. The assessee filed the return of income in response to notice under section 148 of the Act on 23.11.2018 admitting a total income of ₹.1,55,000/-. Notice under section 143(2) of the Act dated 26.11.2018 was duly

served on the assessee. Since there was no response, a show cause notice has been issued on the assessee. The AR of the assessee appeared before the Assessing Officer on 27.12.2018 and filed written submissions along with details. After considering the submissions of the assessee and since there was no adequate evidence to prove for the balance deposits of ₹.4,69,300/-, the Assessing Officer treated the same as unexplained sources and added to the income returned, besides estimating personal drawings at ₹.50,000/- as the assessee has not admitted personal drawing (cash expenses). Accordingly, the Assessing Officer has completed the assessment under section 143(3) r.w.s. 147 of the Act dated 27.12.2018 by treating the cash deposit of ₹.5,19,300/- as from unexplained sources and brought to tax. On appeal, the Id. CIT(A) (NAFC) confirmed the assessment order.

4. On being aggrieved, the assessee is in appeal before the Tribunal. By filing detailed written submissions, the Id. Counsel for the assessee prayed for deleting the addition of ₹.5,19,300/-.

5. On the other hand, the Id. DR supported the orders of authorities below.

6. We have heard both the sides, perused the materials available

on record and gone through the orders of authorities below including paper book and written submissions filed by the Id. Counsel for the assessee. In this case, in the absence of material evidence towards cash deposits, the Assessing Officer treated the amount of ₹.5,19,300/- as unexplained sources and brought to tax which was confirmed by the Id. CIT(A). Against the addition of ₹.5,19,300/-, it was submitted that the assessee is basically an agriculturist and derives income from house property and interest. By filing sale deeds, it was the submission that the assessee owns 1.5 acres of dry lands and derived an agricultural income of ₹.1,35,000/-. Before the Id. CIT(A), similar submissions were also made and the assessee was ready to produce necessary evidences towards agricultural activities and such agricultural income. However, the Id. CIT(A) has not called for any details from the assessee. The agricultural income claimed by the assessee is liable to be accepted since the assessee owns agricultural (dry) lands, which is not under dispute.

6.1 With regard to repayment of sundry loans, it was the submission that during the year, the assessee had received a sum of ₹.92,000/- as interest, which was derived out of sundry loans advanced to the persons surrounding the village and nearby his residence and such

borrowers have returned some amount from time to time which were deposited in the bank account. As it is very common in the small villages to lend money for interest and the cash deposits ranging from ₹.4000/- to ₹.20,000/- to the extent of ₹.3,00,000/- was made out of such repayment of sundry loans advanced year is liable to be accepted.

6.2 With regard to opening cash balance of ₹.2,00,000/-, it was the submission that the assessee was deriving income by way of rent receipts of ₹.90,000/- and also interest income of about ₹.90,000/-. Since the income is below taxable limit, the assessee was not filing any return of income in the past. It was further submission that the income of the past two years was about ₹.3,60,000/- and even if some amounts are considered for family drawings, the assessee would be able to have the opening cash balance of atleast ₹.2,00,000/-, out of which not only his personal expenses are met for the year but also certain portion was deposited in the bank account.

6.3 The Id. DR could not file any counter reply or controvert to the above written submissions of the assessee. Under the above facts and circumstances, we are of the considered opinion that the addition

made by the Assessing Officer is unwarranted and accordingly, the addition of ₹.5,19,300/- stands deleted.

7. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 31st January, 2023 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 31.01.2023

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.