

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' 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.865/Chny/2022
निर्धारण वर्ष/Assessment Year: 2020-21

Shilpi Rasiwasia,
51, Nemili Village,
Sriperumbudur,
Kanchipuram 602 105.
[PAN:ADSPR5809D]

Vs. The Assistant Director of
Income Tax,
CPC, Bangalore.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri N. Arjun Raj, C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT
सुनवाई की तारीख/ Date of hearing : 31.01.2023
घोषणा की तारीख /Date of Pronouncement : 03.02.2023

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 29.08.2022 relevant to the assessment year 2020-21.

2. The assessee is an individual carrying on business in the name of M/s. Guari Wood Packers filed the return of income for the assessment year 2020-21 on 31.12.2020 admitting total income of

₹.40,52,520/-. During the course of assessment proceedings, the assessee has submitted before the Assessing Officer that the income from house property has been shown twice and taxed twice. The assessee raised the issue through grievance for rectification on 31.12.2020 stating that income is taxed twice that is both under the head income from “business/profession” and under the head income from “house property”. Accepting the request, the assessee was allowed to file rectified return under section 119(2)(b) of the Income Tax Act, 1961 [“Act” in short] by condoning the delay. Accordingly, the Assessee filed a rectified return on 13.12.2021 with a tax refund of ₹.4,07,040/-. Accordingly, the assessee received an intimation order under section 154 of the Act dated 10.01.2022 from CPC Bangalore without considering the refund claimed. The assessee carried the matter in appeal before the Id. CIT(A) (NAFC). The Id. CIT(A)(NAFC) dismissed the appeal filed by the assessee.

3. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that in the return of income, the assessee has shown the income from house property twice in both under the head “income from business/profession” and under the head “income from house property”. Despite filing rectification petition, the

CPC Bangalore has not considered the prayer of the assessee. It was further submissions that the Id. CIT(A)(NAFC) has also not considered the submissions of the assessee and prayed for suitable directions.

4. On the other hand, the Id. DR has submitted that the rectification petition filed by the assessee on the ground that the income from house property shown twice in both under the head "income from business/ profession" and under the head "income from house property" has been duly considered by the CPC, Bangalore and passed order under section 154 of the Act.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The return filed by the assessee was processed under section 143(1) of the Act dated 24.03.2021. Vide rectification request dated 13.12.2021, the assessee has stated before the Assessing Officer that there is a mistake in the said intimation under section 143(1) of the Act which was apparent from record within the meaning of section 154 of the Act and claimed refund of ₹.4,07,040/-. However, the refund was not granted while concluding the rectification order under section 154 of the Act. The contention of the assessee is that the income from house property has been shown twice in both under the head "income from business/profession" and under the

head "income from house property" and therefore, the assessee is eligible to get back the excess tax paid of ₹.4,07,040/-. On perusal of the appellate order and order under section 154 of the Act, it is not clear as to whether the claim of the assessee is correct or not. Accordingly, we set aside the order of the Id. CIT(A)(NAFC) and remit the matter back to the file of the Assessing Officer and examine the claim of the assessee and decide the issue afresh in accordance with law by affording an opportunity of being heard to the assessee.

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

Order pronounced on 03rd February, 2023 at Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 03.02.2023

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.