

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपीलसं./**ITA No.:354/CHNY/2022**

निर्धारण वर्ष/Assessment Year: 2017-18

Smt. Devanathan
Bagiyalakshmi,
11/12, Guru Shanthi Apartment,
Madurai Street,
Perambur,
Chennai – 600 011.

The Income Tax Officer,
vs. Non-Corporate Ward 10(1)
Chennai.

PAN: AZKPB 0731E

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/Appellant by

: Shri T.N. Seetharaman, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri M. Rajan, CIT

सुनवाई की तारीख/Date of Hearing

: 31.01.2023

घोषणा की तारीख/Date of Pronouncement

: 10.02.2023

आदेश / O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the Revision order passed by the Principal Commissioner of Income Tax, Chennai in Revision No. PCIT, Chennai-3/Revision-263/100000316560/2022 dated 15.03.2022. The assessment was framed by the Income Tax Officer, Non-Corporate Ward 10(1), Chennai for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter

the 'Act') for the assessment year 2017-18 vide order dated 10.12.2019.

2. The only issue in this appeal of assessee is against the revision order passed by PCIT while exercising power u/s.263 of the Act in regard to cash money deposited during the year amounting to Rs.86,00,000/- and an amount of Rs.15,49,408/- utilized towards cash payment for purchase of immovable property. For this issue assessee has raised various grounds which are argumentative in nature and hence, need not be reproduced.

3. Brief facts are that the assessee is an individual assessed to income-tax. She has filed her return of income for the relevant assessment year 2017-18 on 08.12.2017 and AO completed assessment u/s.143(3) of the Act, vide order dated 10.12.2019 by making addition of Rs.30,00,000/- as assessee's unexplained investment u/s.69 of the Act and taxed at the rate as provided u/s.115BBE of the Act. The Id.counsel for the assessee took us through the assessment order and stated that the case of assessee was selected for complete scrutiny under CASS. The Id.counsel for the assessee stated that the AO enquired into source of cash deposit on account of sale of immovable property being two agricultural lands and received total consideration in financial year 2012-13 at

Rs.1,39,55,000/- . The AO noted the fact that the assessee has received this sale consideration and invested in purchase of residential property in June 2016 for a sum of Rs.1,07,00,000/- and balance Rs.30,00,000/- was deposited in bank during demonetization period. The AO accepted this cash of Rs.1.07 crores and added the balance Rs.30 lakhs deposited during the demonetization period u/s.69 of the Act. The Id.counsel stated that this addition was accepted by assessee under VSVS and paid the taxes accordingly. Subsequently, the PCIT issued show-cause notice u/s.263 of the Act dated 22.02.2022 to assessee calling for explanation on the cash deposit of Rs.86,00,000/- made prior to demonetization period and further cash payment for purchase of immovable property amounting to Rs.15,49,408/- which was never enquired by AO while framing assessment.

3.1 The PCIT was not convinced with the explanation of the assessee that she has received cash of Rs.1,39,50,000/- during the financial year 2012-13 on account of sale of agricultural land, which was kept as cash at her house for 4 years and deposited this Rs.86,00,000/- in the bank account and utilized Rs.15,49,408/- towards purchase of immovable property from this very cash during the financial year 2016-17 relevant to assessment year 2017-18. The PCIT directed the AO to examine this issue because during

original assessment proceedings in regard to this deposit of cash of Rs.80,00,000/- and utilization of cash of Rs.15,49,408/- towards purchase of immovable property was never examined in the scrutiny assessment. The PCIT finally held in para 8 & 9 as under:-

8. In additions to the reasons mentioned above by the Assessing Officer, any amount of cash in hand exceeding Rs.50,000/- was a taxable asset under the provisions of Wealth Tax Act in those years. The amount of Rs.1,39,50,00/- is far above the minimum taxable wealth limit of Rs.30,00,000-. So if the assessee's claim of keeping Rs.1,39,00,000/- as cash at her house is true, she should have filed wealth tax returns for all those four years disclosing this asset. However, it is seen that she has not filed wealth tax returns for any of these years.

9. From the above, it is clear that there was a mistake on the part of the Assessing Officer in not adding the above described amounts of Rs.86,00,000/- which is the amount of the money deposited during the year (before demonetization period) and the amount of Rs.15,49,408/- utilised towards cash payment for purchase of immovable property. Thus the assessment made was erroneous and prejudicial to the interest of the revenue. Therefore, under the provisions of section 263 of the Income Tax Act, I hereby set-aside the assessment made under section 143(3) with a direction to the Assessing Officer to redo the assessment for making necessary enquiries on the above points and giving sufficient opportunities to the assessee for being heard.

Aggrieved, now assessee came in appeal before the Tribunal.

4. We have heard rival contentions and gone through facts and circumstances of the case. Before us the Id.counsel for the assessee tried to explain that at the first time the AO has examined this issue and noted the same in para 7 as under:-

“7. The assessee has claimed the sources for the Cash Deposit is on account of Sale of immovable property being two agricultural lands during F.Y.2012-13 relevant to the Asst.Year 2013-14. The assessee has received

total consideration of Rs.1,39,55,000/- by way of Cash towards the sale of immovable property. The assessee has stated that the sale consideration were invested in purchase of a residential property in June, 2016 for a sum of Rs.1,07,00,000/- and the balance of Rs.30,00,000/- was deposited in Bank during demonetization period. “

Further, he stated that the assessee has explained the cash deposit of Rs.86,00,000/- in savings bank account maintained with SBI A/c. No.10313598251 deposited on 21.06.2016. The Id.counsel also stated that the assessee has declared this cash in hand of Rs.1,39,78,000/- in the wealth tax returns for assessment year 2014-15 and a sum of Rs. 1,39,58,000/- in the wealth tax return for assessment year 2015-16 which was accepted by the AO in the respective assessment years for these two years. According to Id.counsel, this cash deposit in bank account of Rs.86,00,000/- and cash utilized towards purchase of immovable property of Rs.15,49,408/- is explained.

4. The first defect we noted is that the wealth tax returns were not filed by assessee for the relevant assessment years 2014-15 and 2015-16 despite the fact that the AO issued reopening notice u/s.16 of the Wealth Tax Act. Further, the assessments were completed only on 11.03.2022 just before issuance of notice dated 24.03.2021 which is again after completion of assessment by the AO which is dated 10.12.2019 and even after issuance of show-cause notice by the PCIT which is dated 22.02.2022. It means that

the wealth tax assessments have no value to consider the explanation of the assessee. Even otherwise, we are of the view that the AO has neither examined the source of cash deposit of Rs.86,00,000/- and cash payment towards purchase of immovable property amounting to Rs.15,49,408/- and in the absence of any enquiry conducted by the AO in this regard, the assessment order is rightly been held to be erroneous and prejudicial to the interest of Revenue. We find no infirmity in the order of PCIT revising the assessment but AO will consider the explanation and evidences of assessee during the course of set aside assessment proceedings and will examine in detail as per law. Hence, the revision order passed by PCIT is confirmed.

6. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 10th February, 2023 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 10th February, 2023

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |