

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri Manjunatha, G. Accountant Member

आयकर अपील सं./I.T.A. No.615/Chny/2023
निर्धारण वर्ष/Assessment Year: 2012-13

Kingsley Lazarus,
63/3, Veteran Lines, Pallavaram,
Chennai 600 043.

Vs. The Income Tax Officer,
Non Corporate Ward 22(2),
Tambaram, Chennai.

[PAN:AJRPK3908R]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri G. Sitharaman, CA
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 26.06.2023
घोषणा की तारीख /Date of Pronouncement : 26.06.2023

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 26.12.2022 relevant to the assessment year 2012-13.

2. The appeal filed by the assessee is delayed by 80 days in filing the appeal and filed a petition for condonation of delay in support 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 of 80 days in filing of the appeal stands condoned and the appeal is admitted for adjudication.

3. Brief facts of the case are that the assessee has filed the return of income for the assessment year 2012-13 on 25.10.2013 admitting income of ₹.2,23,101/-. However, as per the information available with the Department, the assessee has paid cash of ₹.25,21,310/- in order to foreclose a car loan issued by M/s. HDFC Bank. Since there was reason to believe that income has escaped assessment, the Assessing Officer reopened the case and issued notice under section 148 of the Income Tax Act, 1961 ["Act" in short] dated 29.03.2019 was served through portal on the same day. The notice was also served through post on 01.04.2019. Since no return of income was filed in response to notice under section 148 of the Act, a reminder was also issued on 30.10.2019 and served on 04.11.2019. However, the assessee did not file return till 18.11.2019. Hence, the Assessing Officer issued a show-cause notice dated 18.11.2019 proposing to complete the assessment under section 144 of the Act. Before the Assessing Officer, the assessee has stated that he used to travel often to various places to give lecture as a theological counsellor and the persons availing his services pay only cash towards

travelling and incidental expenses and these are the reasons for the cash deposits in his bank account. So far as income from house property, the assessee has submitted before the Assessing Officer that he omitted to be included in the return of income filed. With regard to the foreclosure of loan of ₹.25,21,310/-, the assessee has submitted before the Assessing Officer the said amount was paid by one Shri P.M. Ibrahim who bought the vehicle from him. However, the assessee could not file and further details with regard to the buyer. The assessee filed his return of income on 0-4.12.2019 admitting the same total income of ₹.2,23,100/- as in the original return. The Assessing Officer issued notice under section 143(2) of the Act on 06.12.2019 requesting the assessee to furnish the details on 09.12.2019. The notice was digitally served on 06.12.2019. However, the assessee did not response to the notice under section 143(2) of the Act. Hence, the Assessing Officer has completed the assessment under section 144 r.w.s. 147 of the Act dated 13.12.2019 by assessing total income of the assessee at ₹.37,62,011/- after making various additions.

4. The assessee carried the matter in appeal before the Id. CIT(A). The Id. CIT(A) issued notice under section 250 of the Act dated 08.02.2021 fixing the case for uploading submission along with necessary documents in support of grounds of appeal on 23.02.2021. However, the

assessee did not comply with the said notice. Thereafter, the case was refixed on 27.11.2021 and 05.12.2022 through letter/notice dated 12.11.2021 and 28.11.2022 respectively. Since the assessee has not responded to the above notices and no material/details in support of the grounds of appeal taken were submitted, the Id. CIT(A) completed the appellate order dismissing the appeal filed by the assessee.

5. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the assessee was engaged in his professional work, giving lectures in various places on theological counselling and had to be away from Chennai at frequent intervals. It was further submission that the assessee was not aware of the non-compliance of the notices and thus prayed that the assessee may be afforded one more opportunity of being heard to substantiate his claim before the Id. CIT(A).

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

7. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. Against the additions made by the Assessing Officer, the assessee preferred further

appeal before the Id. CIT(A). The assessee was engaged in his professional work, giving lectures in various places on theological counselling and had to be away from Chennai at frequent intervals and he was not aware of the non-compliance of the notices despite the assessee instructed his Tax Consultants to take action for the notices issued by the Id. CIT(A). Since the non-compliance of the notices issued by the Id. CIT(A) was unintentional, we are of the considered opinion that the assessee may be given one more opportunity to substantiate his claim before the Id. CIT(A). Accordingly, we set aside the appellate order and remit the matter back to the file of the Id. CIT(A) to decide the issues afresh in accordance with law by considering the details as may be furnished by the assessee. The assessee is also directed to furnish complete details before the Id. CIT(A) for deciding the issues.

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

Order pronounced in the open Court on 26th June, 2023 at Chennai.

Sd/-
(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 26.06.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.