

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. 762/Chny/2023
निर्धारण वर्ष/Assessment Year: 2011-12

Selvi Ponnusamy Rajan,
37A Pathi Nagar, Salem Road,
Namakkal 637 001, Tamil Nadu.

Vs. The Assistant Commissioner of
Income Tax,
Circle 1, Namakkal.

[PAN:ATYPR2040L]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : None
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT
सुनवाई की तारीख/ Date of hearing : 25.07.2023
घोषणा की तारीख /Date of Pronouncement : 25.07.2023

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 26.05.2023 for the assessment year 2011-12.

2. Brief facts of the case are that the case of the assessee was reopened for assessment for the assessment year 2011-12 under section 147 of the Income Tax Act, 1961 ["Act" in short] and issued notice under section 148 of the Act dated 23.03.2018 and duly served on the assessee

for filing return of income. The assessee failed to reply to the same. Again, notice under section 142(1) of the Act dated 24.09.2018 was issued and duly served on the assessee asking him to prepare a true and correct return of income for the assessment year 2011-12 for assessment. The assessee failed to comply with the above notices as well as subsequent notices issued on various occasions or filed return of income. After obtaining details from the ICICI Bank under section 133(6) of the Act and considering the bank details, the Assessing Officer has completed best judgement assessment under section 144 of the Act dated 26.11.2018 assessing total income of the assessee at ₹.89,00,240/- under section 69A of the Act. On appeal, the Id. CIT(A) dismissed the appeal since there was no response to the hearing notices issued on various occasions by the assessee.

3. On being aggrieved, the assessee is in appeal before the Tribunal. When the appeal was taken up for hearing, none appeared on behalf of the assessee. Hence, we proceed to decide the appeal after hearing the Id. DR.

4. We have heard the Id. DR, perused the materials available on record and gone through the orders of authorities below. Since the assessee has not filed return of income for the assessment year 2011-12,

when there was huge deposits into his saving bank account with ICICI Bank, after obtaining details from the bank under section 133(6) of the Act, the Assessing Officer has completed the best judgement assessment under section 144 of the Act. On appeal, the Id. CIT(A) dismissed the appeal of the assessee since there was no representation from the assessee by filing written submissions with supporting evidences and also directed the Assessing Officer to levy interest as per law despite various hearing notices issued for filing written submissions. On perusal of the entire records, we find that the address given by the assessee in Form 36 are same as mentioned in the appellate order as well as assessment order. However, in Form 35, the assessee has stated some other address. On perusal of the appellate order, we find that in para 5.2, the Id. CIT(A) has stated that "As the appellant had shifted his residence, a few notices issued by Assessing Officer did not reach him. The assessment order alone was sent to the appellant by the present occupant of old residence". When there is change of address, the assessee is liable to intimate the change of address. In view of the above facts and to meet the ends of natural justice, after ascertaining correct address, the Id. CIT(A) is directed to afford one more opportunity of being heard to the assessee and consider the explanation as may be furnished by the assessee and thereafter decide the issue on merits in accordance

with law. The assessee is also directed to furnish complete details with material evidences and convincing explanations before the Id. CIT(A) for consideration.

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

Order pronounced in the open Court on 25th July, 2023 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 25.07.2023

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.