

अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्रीमहावीर 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 अपील सं./ITA No.: 312/CHNY/2023
निर्धारण वर्ष /Assessment Year: 2018-19

Shri R.S. Thamilselvan,
58, Palayam Bazaar,
Woraiyur,
Tiruchirapalli – 620 003.

The ACIT,
v. Circle-1,
Trichy

PAN: ABQPT 9634A

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: None
: Shri T. Vasanthan, CIT

सुनवाई की तारीख/Date of Hearing

: 27.06.2023

घोषणा की तारीख/Date of Pronouncement

: 27.06.2023

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal filed by the assessee is directed against the Revision order passed by the Principal Commissioner of Income Tax, Madurai-1 in Revision No.PCIT, Madurai-1/Revision-263/100000436537/2022 dated 21.02.2023. The assessment was framed by the Addl./Joint/Deputy/Asst. Commissioner of Income Tax/Income Tax Officer, National e-Assessment Centre, Delhi for the

assessment year 2018-19 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 11.01.2021.

2. The only issue in this appeal of assessee is as regards to the revision order passed by the PCIT u/s.263 of the Act, setting aside the assessment completed u/s.143(3) of the Act in limited scrutiny assessment. For this, assessee has raised various argumentative grounds and also cited many case laws, which we need not to reproduce.

3. At the time of hearing, none is present from assessee's side and we have heard Id.CIT-DR and gone through facts and circumstances of the case. Brief facts are that the original assessment was completed u/s.143(3) r.w.s. 143(3A) & 143(3B) of the Act vide order dated 11.01.2021. From the assessment order, it is clear that the case was selected for limited scrutiny i.e., for examining income from house property. The relevant noting done in the assessment order reads as under:-

"1. The case was selected for Limited Scrutiny assessment under the E-assessment Scheme, 2019 on the following issues:-

- | <i>S.No.</i> | <i>Issues</i> |
|--------------|---|
| <i>1.</i> | <i>Income from House Property</i> |
| <i>2.</i> | <i>On above issue(s), no addition is made."</i> |

The PCIT, on verification of records noted that the assessee has incurred expenditure of interest paid to NBFCs amounting to Rs.41,83,817/- without deduction of TDS. Hence, he revised the assessment framed by AO and directed the AO to verify the applicability of provisions of section 40(a)(ia) of the Act for non-deduction of TDS on interest payment to NBFCs. The PCIT finally directed the AO in para 7 as under:-

7. In view of the above, I am satisfied that the order dated 11/01/2021 passed by the Assessing Officer u/s 143(3) of Act for the A.Y.2018-19 is erroneous in so far it is prejudicial to the interest of the revenue. Therefore, in exercise of powers conferred u/s 263 of the Act, I set aside the aforesaid order for the limited purpose of verification of applicability of section 40(a)(ia) of the Act as discussed in para (5.3) & (5.4) above. The assessing officer shall pass fresh order after making necessary enquiries and verification with regard to the claim of the assessee as discussed above in accordance with law after allowing reasonable opportunity of being heard to the assessee.

4. We noted that first of all the assessee's case is clear-cut a limited scrutiny assessment i.e., to examine the income from house property only and this issue is now squarely covered by the decision of Hon'ble Madras High Court in the case of CIT vs. Smt. Padmavathi, [2020] 120 taxmann.com 187 (Madras), wherein it is held as under:-

17. The assessing officer in his limited scrutiny, has verified the source of funds, noted the sale consideration paid, the expenses incurred for stamp duty and other charges. Furthermore, the assessee in their reply dated 11.01.2019 to the show cause notice dated 26.10.2018 issued by the PCIT has specifically stated that the assessment was getting time barred,

assessing officer took upon himself the role of a valuation officer under Section 50(C)(2) and found that the guideline value was not actual fair market value of the property and the actual consideration paid was the fair market value and therefore, he did not choose to make any addition under Section 50(C) of the Act.

18. The PCIT, has not dealt with this specific objection, but, would fault the assessing officer for not invoking Section 56(2)(vii)(b)(ii) merely on the ground that the market value was higher. As point out earlier, the guideline value is only an indicator and that will always not represent the fair market value of the property and therefore, the invocation of the power under Section 263 of the Act by the PCIT is not sustainable in law.

On this short premise, the revision order will go. Accordingly, we quash the revision order passed by PCIT and allow the appeal of assessee.

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

Order pronounced in the open court on 27th June, 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 27th June, 2023

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त /CIT

4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF.