

**आयकर अपीलीय अधिकरण “बी” न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“B” BENCH, CHENNAI**

**माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI V. DURGA RAO, JM AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं./ ITA No.358/Chny/2023**  
**(निर्धारण वर्ष / Assessment Year: 2014-15)**

<b>Dinroze Estate</b> 12A, Wellington Plaza, 90, Anna Salai, Chennai-600 002.	<b>बनम</b> / Vs.	<b>ITO</b> Non -Corporate Ward-9(5), Chennai.
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. <b>AAAAD-1408-J</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकी ओरसे/ <b>Appellant by</b>	:	Shri S. Venugopalan ( CA) - Ld.AR
प्रत्यर्थीकी ओरसे/ <b>Respondent by</b>	:	Shri D.Hema Bhupal (JCIT)- Ld.Sr. DR

सुनवाईकी तारीख/ <b>Date of Hearing</b>	:	25-07-2023
घोषणाकी तारीख / <b>Date of Pronouncement</b>	:	09-08-2023

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2014-15 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 24-01-2023 in the matter of rectification intimation u/s 154 issued by Centralized Processing Centre, Bengaluru (CPC) on 10-07-2019. The assessee is assessed as an Association of Person (AOP). The return of the estate was filed considering the provisions of Sec. 161 of the Act.

The trust earns income primarily under the head 'income from house property'.

2. The grievance of the assessee is application of correct rates of taxes. The assessee has computed tax at rates which are applicable to an individual assessee whereas CPC has taxed the returned income at Maximum margin rate of 30%. The assessee's reasoning was that the assessee is a specified trust wherein the names of the beneficiaries are known and their shares are determinate. It was pointed out that similar rate was charged for AYs 2017-18 and 2018-19 against which the rectification of the assessee was allowed. Therefore, rejection of similar rectification in this year was not justified. In AYs 2011-12 to 2013-14 also, the rates adopted by the assessee were accepted. Reliance was also placed on the decision of Hon'ble Supreme Court in the case of **CWT vs. Trustees of E.H. Nizam family (Remianidner Wealth) trust (108 ITR 555)** in support of application of Sec. 161. It was held that though Trust had filed single return, the department has to pass order in the hands of the Trustees representing each beneficiary trust separately in respect of his share of income treating the status as an individual. In other words, the department has to pass that many number of assessments as there are beneficiaries. However, Ld. CIT(A) confirmed the intimation issued by CPC by relying on the provisions of Sec.166. Aggrieved, the assessee is in further appeal before us.

3. We find that the trust earns income primarily under the head 'income from house property'. Therefore, the provisions of Sec.161 (1A) would have no applicability. Secondly, the option of direct assessment as envisaged by Sec.166 could not be applied while processing the return

of income since only prima-facie adjustments could be made u/s 143(1). Thirdly, in all the preceding as well as in subsequent years, the rates as adopted by the assessee has been accepted by the revenue which is evident from following tabulation as made by Ld. AR before us: -

**STATEMENT SHOWING THE RETURNS FILED AND REFUND GRANTED TREATING AS INDIVIDUAL**

S.No.	Assessment Year	Date of filing	Ack No.	Income from house property	Refund Recd. taxing at normal rates
1	2007-08	03/10/2007	622163	114,858	Yes
2	2008-09	25/07/2008	620923	214,549	Yes
3	2009-10	28/07/2009	620975	149,836	Yes
4	2010-11	03/08/2010	621247	89,188	Yes
5	2011-12	27/07/2011	620460	97,729	Yes
6	2012-13	15/03/2013	1150313176943	104,373	Yes
7	2013-14	02/08/2023	1020813085359	90,666	Yes
8	2014-15	Subject matter of appeal before Hon'ble Tribunal			
9	2015-16	31/08/2015	755113510310815	119,675	Yes
10	2016-17	26/07/2016	308760920260716	89,188	Yes
11	2017-18	04/08/2017	132535930040817	328,640	Demand raised on 21/11/2018 as AOP. Rectification filed on 11/3/2019 <b>6/11/2019 Rectification passed and refund granted.</b>
12	2018-19	24/07/2018	886706480240718	89,799	Demand raised on 11/01/2019 as AOP Rectification filed on 11/3/2019 <b>6/11/2019 Rectification passed and refund granted.</b>
13	2019-20	10/08/2019	787572220100819	99,604	Refund granted
14	2020-21	07/11/2020	706173790071120	15,028	Refund granted

For all the aforesaid reasons, the computations made by CPC could not be accepted. The Ld. AO is directed to accept the rates of taxes as applied by the assessee.

4. The appeal stand allowed.

*Order pronounced on 9<sup>th</sup> August, 2023.*

**Sd/-**

**(V. DURGA RAO)**

**न्यायिक सदस्य/JUDICIAL MEMBER**

**Sd/-**

**(MANOJ KUMAR AGGARWAL)**

**लेखा सदस्य / ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 09-08-2023

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**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF