

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH, CHENNAI
श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE-PRESIDENT
AND SHRI G.MANJUNATHA, ACCOUNTANT MEMBER

आयकर अपीलसं./I.T.A.No.20/Chny/2023

(निर्धारणवर्ष / Assessment Year: 2017-18)

Aadarsh Surana, 42, Rajendra Prasad Road, Chrompet, Chennai-600 044.	Vs	The Deputy Commissioner of Income Tax, Corporate Circle-1(1), Chennai.
PAN : AAFPA 6450M		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent/Cross Objector)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. Sandeep Bagmar, Advocate
प्रत्यर्थीकीओरसे/Respondent by	:	Mr. N.B.Som, CIT

सुनवाईकीतारीख/Date of hearing	:	04.09.2023
घोषणाकीतारीख /Date of Pronouncement	:	08.09.2023

आदेश / ORDER

PER MAHAVIR SINGH, VP:

This appeal by the assessee is arising out of order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre(NFAC), Delhi u/s.250 of the Income Tax Act, 1961 (hereinafter 'the Act') vide order No. ITBA/NFAC/S/250/2022-23/1047542940(1) dated 21.11.2022. The assessment was framed by the Deputy Commissioner of Income Tax, Corporate Circle-I(1), Chennai, for the relevant assessment year 2017-18 u/s.143(3) of the Act vide order dated 22.12.2019.

2. The first issue in this appeal of assessee is as regards to order of CIT(A) passed u/s.250 of the Act dismissing appeal

without allowing reasonable opportunity of being heard and passing ex-parte order and that also a non-speaking order without adjudicating grounds on merits.

3. The second issue in this appeal of assessee is as regards to order of the CIT(A) not adjudicating the issue that assessment order is bad in law, as the assessment was selected for limited scrutiny, but same has been passed as complete scrutiny without obtaining any prior permission/approval from the Principal CIT / CCIT in writing and also ignoring binding CBDIT circular with regard to completion of cases with limited scrutiny selected through CASS module.

4. The third issue in this appeal of the assessee is that the CIT(A) has not considered remand report of the Assessing Officer dated 06.03.2020 on the issue addition made by the Assessing Officer being unexplained investment made in purchase of property at 255/1A/1a Thirumudivakkam Village u/s.69 of the Act amounting to Rs.4,30,62,000/-.

5. The fourth issue on merits is as regards to the assessee selling his proprietary concern as a going concern to M/s. Amar Prakash Developers Pvt.Ltd and issuing shares based

on valuation report dated 31.03.2017 done by M/s.S.L.Gadhiya & Co., Chartered Accountants, for value of Rs.110.04 crores and treating the same as gifts from relatives and making addition u/s.68 of the Act amounting to Rs.115,26,13,606/- being increase in capital.

6. The fifth issue in this appeal of the assessee is as regards to disallowance of expenses relatable to earning of exempt income being dividend claimed as exempt u/s.10(34) of the Act by invoking provisions section 14A read with Rule 8D of the IT Rules amounting to Rs.25,152/-.

7. As regards to first issue of dismissing appeal by the CIT(A) ex-parte and that also without deliberating anything on merits, the CIT(A) dismissed the appeal simplicitor for non-prosecution. We noted that the CIT(A) has called for remand report from the Assessing Officer vide letter dated 25.02.2020, which was sent by the Assessing Officer to CIT(A), but not at all considered by the CIT(A). It seems that the CIT(A) has not carried out statutory duty and passed the order ex-parte without considering anything on merits, even though report of the Assessing Officer was available with him. Hence, without adjudicating on the above issues on merits, we set aside the

order of the CIT(A) and remitting the issues back to the file of the CIT(A) for deciding the issues on merits and by speaking order, after allowing reasonable opportunity of being heard to the assessee. Needless to say, the assessee was also allowed many opportunities by the CIT(A), but the assessee has not availed any of the same. The assessee is also at fault. Hence, we advise the assessee to represent his case before the CIT(A) and place all evidences in support of his claim. In term of above, order of the CIT(A) is set aside and the matter is remanded back to the file of the CIT(A) to decide the issues on merits.

8. The appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 8th September, 2023

Sd/-
(जी. मंजुनाथ)
(G.Manjunatha)
लेखा सदस्य / Accountant Member
चेन्नई/Chennai,

दिनांक/Date: 08.09.2023

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. Appellant
2. Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.

Sd/-
(महावीर सिंह)
(Mahavir Singh)
उपाध्यक्ष/ Vice-President