

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' 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.821/Chny/2023  
निर्धारण वर्ष/Assessment Year: 2012-13

Mr. Palanisamy (HUF),  
No. 108, S. Ponnapuram, Pollachi,  
Coimbatore 642 123.  
**[PAN:AANHP6425P]**

Vs. The Income Tax Officer,  
Ward 1,  
Pollachi 642 002.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Suraj Nahar, C.A.  
प्रत्यर्थी की ओर से/Respondent by : Shri P. Sajit Kumar, JCIT  
सुनवाई की तारीख/ Date of hearing : 19.10.2023  
घोषणा की तारीख /Date of Pronouncement : 31.10.2023

**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 18.05.2023 for assessment year 2012-13.

2. Brief facts of the case are that the assessee filed the return of income for the assessment year 2012-13 on 21.07.2015 declaring income of ₹.1,58,300/-. As the return of income was a belated one, no action was taken and the return was lodged. The Department was having information that as per sale deed Nos. 2676/11 and 2677/11 both dated 02.05.2011,

the assessee has sold immovable properties at SF No. 409 and 410, Vilankurichi village within the Coimbatore Corporation limits to a total extent of 25 cents (or 10890 sq. ft.) for a total consideration of ₹.1,25,01,720/- to M/s. ABT Foundation Ltd., Coimbatore. The above property was a capital asset within the meaning of section 2(14) of the Income Tax Act, 1961 ["Act" in short] attracting capital gains tax. Vide letter dated 14.05.2015, the Assessing Officer requested the assessee to furnish the details regarding PAN No., copy of the return filed by the assessee, etc. By filing copy of return of income and acknowledgement, the assessee has submitted with regard to the transactions in immovable properties, the said transaction was a sale of agricultural land. On verification of the return of income, the Assessing Officer has noted that the assessee has admitted income from other sources to the extent of ₹.1,58,300/-. Since the assessee has not admitted the capital gains on sale of the property, the Assessing Officer believed that the income chargeable to tax has escaped assessment within the meaning of section 147 of the Act and thus, notice under section 148 of the Act was issued to the assessee on 17.03.2017. In response to the notice, the assessee filed the return of income on 02.11.2017 declaring income of ₹.14,84,020/- which includes capital gains of ₹.13,25,720/-. Thereafter, the Assessing Officer issued notice under section 143(2) of the Act dated 08.11.2017.

After examining the details furnished by the assessee, the Assessing Officer has completed the assessment under section 143(3) r.w.s. 147 of the Act dated 22.12.2017 assessing taxable income at ₹.97,64,660/- after taxing short term capital gains at ₹.96,06,360/-. On appeal, the Id. CIT(A) dismissed the appeal filed by the assessee by stating that despite repeated notices given, the assessee has not replied with documentary evidences to substantiate its claim.

3. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that before concluding the appellate order, no final opportunity before framing ex-parte order was afforded and since the assessee was prevented by reasonable cause, he was unable to furnish the details before the Id. CIT(A) and prayed that one more opportunity may be afforded to substantiate his case.

4. On the other hand, the Id. DR strongly supported the order passed by the Id. CIT(A).

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In the assessment order, the Assessing Officer made addition towards short term capital gains against which, the assessee preferred an appeal

before the Id. CIT(A). Despite various opportunities afforded by issuing hearing notices, neither the assessee has replied to hearing notices nor submitted any documentary evidences to substantiate its claim and thereby, the Id. CIT(A) dismissed the appeal filed by the assessee. Before the Tribunal, the Id. Counsel for the assessee has explained that the assessee was prevented by reasonable cause for not filing the explanation/details with supporting evidence in support of its claim. Accordingly, we are of the considered opinion that the assessee shall be afforded one more opportunity of being heard to substantiate its case before the Id. CIT(A) as prayed by the Id. Counsel for the assessee. Thus, we set aside the exparte appellate order and remit the matter back to the file of the Id. CIT(A) to afford one more opportunity of being heard to the assessee to substantiate its case with suitable explanation and evidences and thereafter decide the issue in accordance with law.

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

Order pronounced on 31<sup>st</sup> October, 2023 at Chennai.

Sd/-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 31.10.2023

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.