

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C' BENCH: CHENNAI**

श्री मंजुनाथ. जी, लेखा सदस्य एवं श्री मनोमोहन दास, न्यायिक सदस्य के समक्ष  
**BEFORE SHRI MANJUNATHA. G, ACCOUNTANT MEMBER AND**  
**SHRI MANOMOHAN DAS, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.851/Chny/2023  
निर्धारण वर्ष /Assessment Year: 2016-17

**Kumarasamy Gobirathinam,**  
16, Rangar Sannathi Street,  
Namakkal – 637 001.

**The Asst. Commissioner of**  
**Income Tax,**  
Circle - 1,  
Namakkal.

**[PAN: AAZPG-5518-Q]**  
**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by : Shri N. Arjun Raj, C.A  
प्रत्यर्थी की ओर से /Respondent by : Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing : 06.11.2023  
घोषणा की तारीख /Date of Pronouncement : 15.12.2023

**आदेश / ORDER**

**PER MANOMOHAN DAS, J.M:**

This appeal by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A) dated 26-05-2023 and pertains to the Assessment Year [AY] 2016-17. The grounds of assessee are as under:

*"1. The order of the NFAC, Delhi dated 26.05.2023 vide DIN & Order No.ITBA/NFAC/S/250/2023-24/1053206657(1) for the above mentioned Assessment Year is contrary to law, fact and in circumstances of the case.*

*:- 2 -:*

*2. The NFAC, Delhi erred in sustaining the addition of Rs. 37,79,391/- being the interest income received from Repco Bank duly reported and suffered tax in the hands of the HUF without assigning proper reasons and justification.*

*3. The NFAC, Delhi failed to appreciate that there was no legal sanctity for double taxation of the income disputed in the present proceedings and hence ought to have appreciated that the sustenance of the addition leading to double taxation should be reckoned as nullity in law.*

*4. The NFAC, Delhi failed to appreciate that the deduction of tax at source in the individual PAN was erroneously relied upon for justifying the assessment of the said income and ought to have appreciated that the declaration furnished made by the HUF under Income Declaration Scheme, 2016 would vitiate the addition made in the hands of the individual.*

*5. The NFAC, Delhi failed to appreciate that the scope of IDS, 2016 was not examined in proper perspective and ought to have appreciated that subjecting a particular receipt as part of the scheme would oust the jurisdiction of the Assessing Officer in making the addition in the hands of another person/ entity thereby vitiating the related findings.*

*6. The NFAC, Delhi failed to appreciate that the entire re-computation of taxable total income on various facets was wrong, erroneous, incorrect, invalid, unjustified and not sustainable both on facts and in law.*

*7. The NFAC, Delhi failed to appreciate that the order under consideration was passed out of time, invalid, passed without jurisdiction and not sustainable both on facts and in law.*

*8. The NFAC, Delhi failed to appreciate that the narrow scope of limited scrutiny would vitiate the disputed addition made while completing the assessment and further ought to have appreciated that the narrow scope of the jurisdiction to complete the assessment was exceeded thereby vitiating the assessment order completely for want of jurisdiction.*

*9. The NFAC, Delhi failed to appreciate that there was no effective/proper opportunity given before passing the impugned order and any order passed in violation of the principles of natural justice is nullity in law.*

*10. The Appellant craves leave to file additional grounds/arguments at the time of hearing.”*

: - 3 - :

2. The brief facts of the case are that the assessee is an individual and engaged in the retail business under the trade name of Chamundi Medicals. The assessee filed his return of income for the A.Y 2016-17 on 30-09-2016 declaring a total income of Rs. 8,85,440/- and the same was e-processed under section 143(1) of the Act. Subsequently, the case was selected for the purpose of limited scrutiny under CASS for the examination of the issue that “whether the deduction against income from other source has been correctly shown in the return of income”. Notices under section 143(2) and 142(1) of the Act were issued by the Id. Assessing Officer [AO] to the assessee asking to furnish the necessary information. Thereafter, the assessee appeared and submitted his reply. The Id. AO considered the reply of the assessee but found not acceptable. Hence, the Id. AO rejected the submission of the assessee and vide order dated 10-12-2018 added the amount of Rs. 37,79,391/- to the total income of the assessee.

3. Being aggrieved, the assessee filed 1<sup>st</sup> appeal before the Id. CIT(A). However, the Id. CIT(A) vide order dated 26-05-2023 confirmed the addition of Rs. 37,79,392/- made by the Id. AO.

4. Being aggrieved, the assessee filed the present appeal before the Tribunal.

: - 4 - :

5. Heard the representatives of both the parties and perused the materials available on record. The Ld. AR submitted that the addition of Rs. 37,79,392/- has already been made by the Department as an income of the HUF under the Income Declaration scheme, 2016 and therefore, the addition of the same amount in the hands of the assessee would be a double taxation on the same amount. On the other hand, the Ld. DR supported the observations of the lower authorities. The Ld. DR submits that the assessee failed to prove that the amount of Rs. 37,79,392/- was the income of the HUF.

6. The stand of the assessee before the lower authorities was that, the assessee had family funds as deposit with Repco Bank. The said deposit was disclosed by the assessee under the Income Declaration Scheme, 2016 in the status of HUF (PAN: AACHG8919G) and due taxes along with surcharge and penalty was paid and the same was accepted by the Commissioner of Income Tax. The assessee claimed that the Repco Bank had issued interest certificate and TDS deducted in the status of Individual and therefore, the total interest shown in the individual return of income of the assessee.

: - 5 - :

7. We carefully considered the submissions of the parties and also perused the observations of the lower authorities. We observe that, the assessee could not prove his case during the assessment proceedings as well as before the Id. CIT(A). No evidence was placed before the lower authorities that the instant amount of Rs. 37,79,392/- was belonged to the HUF. As the assessee failed to prove his case, naturally his appeals will fail. However, we observe another issue which is involved in the case. The Ld. A.R claimed that the added income of Rs. 37,79,392/- has already been accepted by the Department as income of the HUF under the Income Declaration Scheme, 2016 and the same amount has been added to the total income of the assessee vide assessment order dated 10-12-2018 which was confirmed by the Id. CIT(A) vide order dated 26-05-2023. Therefore, it would be a double taxation on the same amount which may not be permissible legally. But the fact remains that the assessee could not produce necessary details to substantiate its claim.

8. As double taxation on the same amount cannot be allowed legally, we have no alternative except setting aside the orders of the lower authorities. Accordingly, we set aside the order of the Id. CIT(A) dated 26-05-2023 as well as the assessment order dated 10-12-2018 to the extent of disallowance of Rs. 37,79,391/- and direct the Id. AO to

: - 6 - :

re-examine the issue of disallowance of Rs. 37,79,391/- because, double taxation on the same amount in the hands of two different persons are not permissible legally.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

*Order pronounced on 15<sup>th</sup> December, 2023.*

**Sd/-**  
**(मंजुनाथ. जी)**  
**(Manjunatha. G)**

**लेखा सदस्य /Accountant Member**

**Sd/-**  
**(मनोमोहन दास)**  
**(Manomohan Das)**  
**न्यायिक सदस्य/Judicial Member**

चेन्नई/Chennai, दिनांक/Dated: 15<sup>th</sup> December, 2023.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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