

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No.1074/Chny/2023
निर्धारण वर्ष/Assessment Years: 2011-12

&

S.P. No. 42/Chny/2023 [in I.T.A. No. 1074/Chny/2023

Subramaniam Elangovan,
No. 37, Laxarus Church, 2nd Lane,
Raja Annamalaipuram,
Chennai 600 028.

Vs. The Income Tax Officer,
Non-Corporate Ward 1(2),
Chennai.

[PAN:AAAPE2824Q]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri T. Vasudevan, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT
सुनवाई की तारीख/ Date of hearing : 04.01.2024
घोषणा की तारीख /Date of Pronouncement : 10.01.2024

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) 4, Chennai dated 26.02.2016 relevant to the assessment year 2011-12.

2. The appeal filed by the assessee is time barred by 2692 days delay in filing the appeal before the Tribunal. The assessee has filed condonation petition in support of an affidavit, wherein, following submissions were made:

The appellant is into the business of money lending which was being conducted in an unorganized sector. Appellant's source of income is from house property and from the business carried on in money lending.

2. *The assessment was finalized by an order passed u/s.143(3) of the Act dated 31.03.2014 wherein the taxable income was determined at Rs.6,01,55,710/- after making addition of Rs.5,93,00,000/- towards unexplained investments u/s 69 A of the Act.*

3. *Aggrieved against the order passed by the Assessing Officer, appellant submitted an appeal before the Commissioner of Income-tax (Appeals). Even though the learned Commissioner of Income-tax (Appeals)-4, Chennai had passed appellate order on 26-02-2016, appellant had not received a copy of the said order. Appellant was under the bona fide belief that the appeal was still pending. Appellant therefore could not submit the appeal before the Hon'ble Tribunal within the statutory time limit. In this connection, appellant pleads to submit a copy of acknowledgement of letter dated 25.05.2023 and 28.06.2023 addressed to the learned Principal Commissioner of Income Tax-1, Chennai regarding request for lifting of attachment wherein the appellant had mentioned that the appeal for AY 2011-12 is still pending, which would show that the appellant was unaware of any appellate order passed by the Commissioner (Appeals).*

4. *The petitioner submits that the delay was neither wilful nor wanton but due to circumstances beyond the control of the appellant. If the delay is not condoned and the appeal disposed of on technical grounds without considering the merits, the assessee would be put to considerable hardship and injury.*

It is therefore prayed that the Hon'ble Tribunal may be pleased to condone the delay of 2713 days in filing the appeal for Assessment Year 2011-12, hear the appellant and consider the appeal.

3. The main contention of the assessee is that the assessee has not received copy of the appellate order passed by the Id. CIT(A). The Id. DR has submitted that as per the records available, appellate order copy of the appeal was not served on the assessee. The Bench has noted that the assessee has changed his original premises without

giving intimation of change of address to the Department and the assessee was not able to establish that the change of address was communicated to the Id. CIT(A). Under the above facts and circumstances and to meet the ends of natural justice, we hereby condone the delay in filing the appeal and admit the appeal for adjudication subject to the condition that the assessee should pay ₹.5,000/- to the State Legal Aid Authority, Hon'ble Madras High Court and produce necessary proof of payment of cost before the Assessing Officer.

4. Brief facts of the case are that the assessee is an individual, engaged in the business of money lending and also derives income from the house property, filed his return of income for the assessment year 2011-12 on 08.02.2012 admitting a total income of ₹.8,55,710/-. The case was selected for scrutiny and the assessment was completed under section 143(3) of the Income Tax Act, 1961 ["Act" in short] on 31.03.2014 at an assessed income of ₹.6,01,55,710/- after making addition of ₹.5,93,00,000/- since the assessee has failed to prove the genuineness of the sources of cash credits in the bank account and also in the name of different debtors.

5. On appeal, since the assessee has failed to prove the genuineness of the sources of cash credits in the bank account and also in the name of different debtors during appellate proceedings, the Id. CIT(A) confirmed the addition made by the Assessing Officer.

6. On being aggrieved, the assessee is in appeal before the Tribunal. By filing consolidated peak working from bank statements along with statement of account for the period from 01.04.2010 to 31.03.2011 and other details, the Id. Counsel prayed for deleting the addition.

7. On the other hand, the Id. DR supported the orders of authorities below.

8. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case, the assessee has failed to prove the genuineness of the sources of cash credits in the bank account and also in the name of different debtors either before the Assessing Officer or before the Id. CIT(A), thereby, the addition made by the Assessing Officer was confirmed by the Id. CIT(A). Since the assessee has filed consolidated peak working from bank statements along with statement of account for the period from 01.04.2010 to 31.03.2011 and other details before the Tribunal, we set

aside the order of the Id. CIT(A) and remit the matter back to the file of the Assessing Officer to examine the details as may be filed by the assessee decide the issue afresh in accordance with law by affording an opportunity of being heard to the assessee. The assessee is also directed to furnish complete details with evidence and suitable explanations before the Assessing Officer for verification.

9. Coming to the Stay Petition filed by the assessee, since the main appeal has been adjudicated on merits, the stay petition filed by the assessee become infructuous and accordingly the same is dismissed.

10. In the result, the appeal filed by the assessee is allowed for statistical purposes and the stay petition is dismissed.

Order pronounced on 10th January, 2024 at Chennai.

Sd/-
(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 10.01.2024

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.