

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' 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.1227/Chny/2023
निर्धारण वर्ष/Assessment Year: 2017-18

Nanjappagounder Palanisamy,
36, Allikarampalayam, Oderpalayam
(PO), Annur, Coimbatore 641 653.

Vs. The Income Tax Officer,
Non Corporate Ward 3(2),
Coimbatore.

[PAN:AYOPP8482H]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Shrenik Chordia, CA
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 13.02.2024
घोषणा की तारीख /Date of Pronouncement : 13.02.2024

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), National Faceless Appeal Centre (NFAC), Delhi, dated 28.06.2023 relevant to the assessment year 2017-18.

2. The appeal of the assessee is filed with a delay of 71 days in filing the appeal before the Tribunal. The assessee has filed a petition for

condonation of delay in the form of an affidavit mentioning the reasons for delay in filing the appeal. By referring to the above affidavit, the Id. Counsel for the assessee has submitted that since the assessee was prevented by reasonable cause for the delay and the delay in filing the appeal is neither wilful nor wanton and prayed for condonation of delay and to admit the appeal for adjudication. Against the above submissions, the Id. DR has not raised any serious objection. Considering the facts and circumstances, we hereby condone the delay in filing the appeal and to admit the appeal for adjudication.

3. Brief facts of the case are that the assessee filed his return of income for the assessment year 2017-18 on 28.03.2018 admitting an income of ₹.28,43,650/-. The return of income was processed under section 143(1) of the Income Tax Act, 1961 ["Act" in short]. Subsequently, the case was selected for complete scrutiny under CASS. After considering the details furnished by the Assessing Officer against statutory notices, the assessment was completed under section 143(3) of the Act dated 18.12.2019.

4. On perusal of the details furnished by the assessee, the Assessing Officer has noted that the assessee has received gift of ₹.76,10,000/- from his wife Smt. P. Savakami during the assessment year 2017-18. The

Assessing Officer asked the assessee to prove the genuineness and creditworthiness of Smt. P. Savakami. The assessee furnished confirmation letter from his wife and copy of property document belongs to Smt. P. Savakami. To verify the genuineness, the Assessing Officer issued summon under section 131 of the Act dated 14.10.2019. Against summon, neither Smt. P. Savakami has appeared nor filed any reply before the Assessing Officer. She did not furnish any evidence or supporting documents to prove her creditworthiness to give gift of ₹.76,10,000/- in cash to the assessee and moreover, she has not filed any ROI. During the course of scrutiny proceedings, the assessee has also not furnished any details towards agricultural income. Against the final show cause notice, the assessee has submitted that he offered an income of ₹.1.06 crores under PMGKY and paid the taxes of ₹.52,89,400/- and the tax payment was made out of the gift receipt. Thus, against the introduction of gift of ₹.76,10,000/- in his books of account, the Assessing Officer granted relief of ₹.52,89,400/- and the balance amount of ₹.23,20,600/- [₹.76,10,000 - ₹.52,89,400/-] was treated as unexplained cash credit under section 68 of the Act and brought to tax. On appeal, the Id. CIT(A) dismissed the appeal for want of prosecution.

5. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. counsel for the assessee has submitted that the assessee was unaware of notices issued by the Id. CIT(A) as he lacks knowledge in operating his e-mail ID and prayed that the assessee may be afforded an opportunity of being heard to substantiate his case before the Id. CIT(A).

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

7. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case, since the assessee has not proved creditworthiness of his wife to offer gift of ₹.76,10,000/-, the Assessing Officer made addition to the extent of ₹.23,20,600/- [₹.76,10,000 - ₹.52,89,400/-] after granting relief of taxes paid under PMGKY of ₹.52,89,400/-. On appeal before the Id. CIT(A), the assessee could not file any evidence/details in support of his claim since the assessee was unaware of notices issued by the Id. CIT(A) as he lacks knowledge in operating his e-mail ID. Under the above facts and circumstances, we set aside the order of the Id. CIT(A) and direct him to afford one more opportunity of being heard to the assessee to substantiate his case. The assessee is also directed to furnish complete details to substantiate his case before the Id. CIT(A) for his consideration.

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

Order pronounced in the open Court on 13th February, 2024 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 13.02.2024

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.