

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' 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.1595/Chny/2023
निर्धारण वर्ष/Assessment Year: 2017-18

Kaliamoorthy,
2, Mathur Road, Ganapathy
Chettikulam, Puducherry 605 015.

Vs. The Income Tax Officer,
Ward 1,
Puducherry.

[PAN:AAEPK9934B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Girish Kumar, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, CIT
सुनवाई की तारीख/ Date of hearing : 22.02.2024
घोषणा की तारीख /Date of Pronouncement : 22.02.2024

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 23.11.2023 relevant to the assessment year 2017-18.

2. Brief facts of the case are that the assessee filed his return of income for the assessment year 2017-18 on 01.03.2018 declaring an income of ₹.54,16,240/-. The case of the assessee was selected for

scrutiny under CASS to examine the cash deposit during the demonetization period. Notice under section 143(2) of the Income Tax Act, 1961 [“Act” in short] was generated on 21.09.2018 and issued through ITBA. Notice under section 142(1) of the Act dated 17.07.2019 also issued to the assessee. On verification of the details collected from the Bank, the Assessing Officer has noted that the assessee had deposited a sum of ₹.62,21,500/- in Specified Bank Notes (SBN) immediately after demonetization. Against the show-cause notice, the assessee has furnished bank details with detailed explanation. After considering the submissions of the assessee, the Assessing Officer has completed the assessment by treating the sum of ₹.36,52,500/- as unexplained investment under section 69 of the Act against the deposit of ₹.58,56,500/-. On appeal, the Id. CIT(A) dismissed the appeal of the assessee for want of prosecution despite various opportunities afforded.

3. On being aggrieved against the exparte appellate order, the assessee is in appeal before the Tribunal. The Id. counsel for the assessee has submitted that the Id. CIT(A) has failed to consider the detailed facts filed along with grounds of appeal. It was further submission that the assessee was prevented by reasonable cause and thereby he was unable to respond to the notices issued by the Id. CIT(A) and

moreover, the Id. CIT(A) has not adjudicated the issue on merits. Thus, the Id. Counsel for the assessee has prayed for affording one more opportunity of being heard to the assessee to substantiate his case before the Id. CIT(A).

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

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. The assessee was engaged in trading of IMFL in the name and style of 'K.S. Wines and Bars' and also engaged in tours and travels 'Ramiyaa Travels Services'. From the details furnished by the assessee, the Assessing Officer has noted that the assessee has accepted demonetization currency after 08.11.2016. As the assessee was not authorized to accept demonetized currency against sales, the Assessing Officer treated the same as unexplained money and brought to tax. On appeal, since the assessee could not furnish any written submissions against the notices issued by the Id. CIT(A), the appeal filed by the assessee was dismissed. Before us, the Id. counsel has submitted that due to unavoidable circumstances, the assessee could not respond to the notices issued by the Id. CIT(A) and prayed for affording one more opportunity of being heard to the assessee.

In order to meet the ends of natural justice, we are of the opinion that the assessee shall be given one more opportunity to substantiate his case before the Id. CIT(A). Thus, we set aside the appellate order and remit the matter back to the file of the Id. CIT(A) with a direction to adjudicate the issue on merits in accordance with law after considering the submissions of the assessee by affording one more opportunity of being heard to the assessee. The assessee is also directed to furnish suitable explanations with material evidence, if any, before the Id. CIT(A) for consideration.

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

Order pronounced in the open Court on 22nd February, 2024 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 22.02.2024

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.