

**आयकर अपीलीय अधिकरण “ए” न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“A” BENCH, CHENNAI**

**मजनीय श्री महावीर सिंह, उपाध्यक्ष एवम्**  
**मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील सं. ITA No.759/Chny/2022**  
**(निर्धारण वर्ष / Assessment Year: 2016-17)**

M/s. Kathiresan (HUF) 178, Palaniandavarapuram Colony, Sivakasi-626 123.	बनम् / Vs.	ITO Ward-2 Virudhunagar.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No.	<b>AAAHK-6682-A</b>	
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकी ओरसे/ <b>Appellant by</b>	:	Shri Yeshwanth Kumar (CA)-Ld. AR
प्रत्यर्थीकी ओरसे/ <b>Respondent by</b>	:	Shri AR.V.Sreenivasan (Addl.CIT)- Ld. Sr. DR

सुनवाईकी तारीख/ <b>Date of final Hearing</b>	:	05-03-2024
घोषणाकी तारीख / <b>Date of Pronouncement</b>	:	05-03-2024

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. The sole grievance of the assessee in the captioned appeal is the fact that the income of Rs.10 Lacs as offered by the assessee under the head ‘income from other sources’ has been held to be unexplained cash credit u/s 68 and the same has been subjected to higher rate of tax of 60%. Having heard rival submissions, the appeal is disposed-off as under.
2. Upon perusal of assessment order, it could be seen that the assessee deposited sum of Rs.10 Lacs in its bank account during the period 12-11-2015 to 18-12-2015 and accordingly, the assessee was

directed to substantiate the source of the same. The assessee simply stated that the amount was received from brokerage and the same was deposited in the bank account. However, no documentary evidence could be furnished by the assessee in support of the same. Accordingly, the income of Rs.10 Lacs as offered by the assessee was held to be unexplained cash credit u/s 68 which would be subjected to tax at higher rate of 30% u/s 115BBE. The position remained the same during appellate proceedings. The Ld. CIT(A) rendered findings that the assessee could not provide details of source of Rs.10 Lacs. The assessee do not appear to carry on any business and therefore, the said income would be subjected to higher rate of 60% as against 30% as applied by Ld. AO. Aggrieved, the assessee is in further appeal before us.

3. Upon perusal of orders of lower authorities, it could be seen that though the assessee has disclosed income of Rs.10 Lacs under the head 'income from other sources', it has miserably failed to prove the source of the same. The assessee merely stated that it received brokerage in cash. However, in the absences of any documentary evidences supporting such submissions, the same could not be accepted. Before us also, the assessee could not furnished any such material evidence. The Hon'ble Supreme Court in the case of **Bhag Chand Chhabra vs. Pr. CIT (138 Taxmann.com 33)** held that if the assessee failed to prove the genuineness of the transactions, the said income was to be treated as unexplained cash credit u/s 68. Therefore, the action of Ld. AO in treating the said receipts u/s 68 could not be faulted with.

4. However, the Ld. AR's plea as to the applicable rate of tax would find our concurrence. Upon perusal of Sec.115BBE, it could be seen that higher rate of 60% is applicable only from 01.04.2017. In other words, this rate would apply to AY 2017-18 onwards. Up-to AY 2016-17, the applicable rate of tax would be 30% on such income. Therefore, we direct Ld. AO to adopt tax rate of 30% on such income.

5. The appeal stand partly allowed in terms of our above order.

*Order pronounced on 05<sup>th</sup> March, 2024.*

**Sd/-**  
**(MAHAVIR SINGH)**  
उपाध्यक्ष / **VICE PRESIDENT**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 05-03-2024  
DS

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF