

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

आयकर अपील सं./I.T.A. No.1141/Chny/2023
निर्धारण वर्ष/Assessment Year: 2012-13

Shri N. Gunasekar,
No. 196-C, Anna Nagar, Shyamala
Nivas, Kannankurichi, No. 3, Gandhi
Road, Salem 636 008.

Vs. The Deputy Commissioner of
Income Tax,
Circle 1(1),
Salem.

[PAN:AJOPG3410B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri T. Vasudevan, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri P. Sajit Kumar, JCIT
सुनवाई की तारीख/ Date of hearing : 07.03.2024
घोषणा की तारीख /Date of Pronouncement : 07.03.2024

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)-18, Chennai, dated 27.07.2023 relevant to the assessment year 2012-13.

2. The appeal filed by the assessee is delayed by 16 days in filing the appeal, for which, the assessee has filed detailed petition for condonation of the delay in support of an affidavit. By referring to the above condonation petition, the Id. Counsel for the assessee has submitted that

there is 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 above, we hereby condone the delay in filing the appeal and admit the appeal for adjudication.

3. Brief facts of the case are that the assessee filed his return of income for the assessment year 2012-13 on 30.09.2012 under section 139(4) of the Income Tax Act, 1961 ["Act" in short] declaring an income of ₹.1,81,80,610/-. A search and seizure operation under section 132 of the Act was conducted in this assessee's case on 20.10.2011 at assessee's residential premises. The assessee filed a return of income for the assessment year 2011-12, wherein, an amount of ₹.3,75,00,000/- was included as additional income declared under section 132 of the Act. Notices under section 143(2)/142(1) of the Act dated 23.10.2012 were issued and served on the assessee. After considering the submissions of the assessee against the notices issued from time to time, the Assessing Officer has completed the assessment order under section 143(3) of the Act dated 24.03.2014 by assessing total income of the assessee at ₹.5,83,25,354/- after making disallowance of income from other sources

and brought to tax. On appeal, since there was no response from the assessee, the Id. CIT(A) decided the appeal on merits and dismissed the appeal of the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. counsel for the assessee has submitted that the AR of the assessee had appeared before the Id. CIT(A) on 20.02.2023 and filed detailed written submissions in support of the grounds of appeal. However, the Id. CIT(A) has not considered and concluded *exparte* appellate order and prayed for suitable directions.

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

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In the grounds of appeal in ground No. 5, it was contended that the AR of the assessee had appeared before the Id. CIT(A) and filed detailed written submissions on 20.02.2023 in support of the grounds of appeal. Before us, the Id. counsel for the assessee has filed a copy of the written submissions dated 20.02.2023 filed before the Id. CIT(A) and submitted that the Id. CIT(A) has erroneously concluded *exparte* appellate order without considering

the written submissions filed by the assessee, whereas, in the appellate order, the Id. CIT(A) has stated that there was no response from the assessee to any of the notices issued by him. Since the Id. CIT(A) has not considered the written submissions filed by the assessee, we set aside the appellate order and remit the matter back to the file of the Id. CIT(A) for fresh adjudication in accordance with law after considering the submissions of the assessee. The Id. CIT(A) is also directed to afford reasonable opportunity of being heard to the assessee.

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

Order pronounced in the open Court on 07th March, 2024 at Chennai.

Sd/-
(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 07.03.2024

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.