

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.1126/Chny/2023
निर्धारण वर्ष/Assessment Year: 2020-21

Prasanth Jain Vijayakumar,
10/4, Kasi Chetty Lane, Sowcarpet,
Chennai 600 079.

Vs. The Deputy Commissioner of
Income Tax,
Central Circle 1(2),
Chennai 600 034.

[PAN:AAQPP7650M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri D. Anand, 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 : 13.03.2024

आदेश /ORDER

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 28.07.2023 relevant to the assessment year 2020-21.

2. Brief facts of the case are that the assessee filed his original return of income for the assessment year under consideration admitting an income of ₹.4,88,690/-. A search and seizure operation under section 132 of the Income Tax Act, 1961 ["Act" in short] was conducted at the residential/business premises in the case of M/s. Golden Shelters Private

Limited, NKV Krishna Group on 16.10.2019. The office premise of the assessee was also covered under section 132 of the Act. Upon completion of search proceedings, the Assessing Officer issued notice under section 143(2) of the Act calling for return of income. During the course of search action at the premise of the assessee, a sum of ₹.53,64,620/- in cash had been found. On questioning the source of the same, Shri Prashanth Jain had stated that cash balance as on 07.09.2019 was ₹.7,38,673/- as per tally. However, Shri Prashanth Jain had not explained the remaining cash found in the premise and thus, the same was seized. In the absence of explanation for the cash seized at the premise of the assessee, the Assessing Officer treated the same as unexplained money under section 69A of the Act and added to the total income of the assessee and taxed as per section 115BBE of the Act. On appeal, after considering the submissions of the assessee, the Id. CIT(A) confirmed the addition made under section 69A of the Act.

3. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. counsel for the assessee has submitted that the entire cash seized from the premises of the assessee does not belong to the assessee alone and it belongs to other family members and therefore, the entire seized amount cannot be assessed in the hands of the assessee

under section 69A of the Act. By filing various details in respect of family members, the Id. counsel prayed for affording an opportunity to substantiate his case.

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. Before us, the Id. counsel has filed copies of the ITR with acknowledgement, copy of capital account, cash book, etc., in respect Vijay Kumar & Jain HUF, Hemalatha, Pushpadevi, Vijay Kumar Jain, Prasanth & Two one Two Enterprises and submitted that the above material evidences were not able to file during the course of assessment proceedings and appellate proceedings due to the reasons beyond his control and prayed for affording an opportunity to the assessee for furnishing the same before the authorities below. To meet the ends of natural justice, we are of the opinion that the assessee shall be afforded an opportunity to furnish the above documentary evidence before the Id. CIT(A) for consideration. Accordingly, we set aside the appellate order and remit the matter back to the file of the Id. CIT(A) to consider the above documentary evidences and decide the issue afresh in accordance with law by affording an

opportunity of being heard to the assessee.

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

Order pronounced on 13th March, 2024 at Chennai.

Sd/-
(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 13.03.2024

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.