

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री मनोज कुमार अग्रवाल, लेखासदस्य एवं श्री मनोमोहन दास, न्यायिक सदस्य के समक्ष
BEFORE SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND
SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं./ITA No.1108/Chny/2023
निर्धारण वर्ष /Assessment Year: 2013-14

Raju Senthilkumar,
2B, URT Apartments,
Site No.47-48, Chamundi Nagar,
Sakthi Nagar Extension, Thindal,
Erode – 638 012.
[PAN: AVDPS-3424-L]

The Income Tax Officer,
Vs. Ward-1(4),
Erode.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri N.C. Ravi Krishnan, Advocate
: Shri R. Clement Ramesh Kumar, CIT

सुनवाई की तारीख/Date of Hearing

: 26.03.2024

घोषणा की तारीख /Date of Pronouncement

: 02.04.2024

आदेश / O R D E R

PER MANOMOHAN DAS, J.M:

Aforesaid appeal by the assessee is directed against the order of the learned Commissioner of Income-Tax, National Faceless Appeal Centre, (NFAC) Delhi [CIT(A)] dated 08-08-2023 and pertains to the Assessment Year [AY] 2013-14.

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2. The grounds of appeal of the assessee are as under:
1. *The order passed by the Learned Commissioner of Income tax (Appeals) is against the facts of the case and in error and without application of mind.*
 2. *The Learned Commissioner of Income tax (Appeals) ought to have understood the fact that, the appellant neither passed the Purchase consideration to the seller of the immovable properties nor taken possession of the properties except the spending of the Registration charges and owning only the Legal title.*
 3. *The Learned Commissioner of Income tax (Appeals) erred in adjudicating the order without considering the submissions made by the appellant and also without applying his mind on whether the purchase consideration has been passed or not. Also he presumes that the monies purported to be paid would have been from the unaccounted sources.*
 4. *The Learned Commissioner of Income tax (Appeals) also erred in stating that the appellant peacefully enjoying the properties, without finding the facts that the properties are still with the seller except the legal title in the name of the appellant.*
 5. *The Learned Commissioner of Income tax (Appeals) ought to have understood the submissions made by the appellant, wherein he had clearly stated that he had given sworn statement in which he himself accepts that except the Registration charges, no further Purchase consideration has been passed on to the seller and the appellant facing consequential criminal action taken by the seller before the court of law.*
 6. *The Learned Commissioner of Income tax (Appeals) ought to have applied his mind in verifying whether the cheques given by the appellant have been honored or not. Also the department has every right to check and inspect the properties and its possession and its status before passing the order.*
 7. *For these and other grounds that may be adduced at the time of hearing, the appellant prays that the order passed by the Commissioner of Income tax (Appeals) is not in order and the order may kindly be dismissed and the appeal may be allowed in favour of the appellant.*

The Ld. AR has pleaded for another opportunity of hearing since the assessment has been framed on *best judgment basis u/s 144*. The Ld.

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Sr. DR pleaded for dismissal of the appeal. Having heard rival submissions, the appeal is disposed-off as under.

3. The brief facts of the case are that the assessee is an individual and Ex-Managing Director of M/s A-Team Information Technology Ltd., a company which was engaged in the business of purchase and sale of Computers and allied accessories in Erode now under liquidation. Assessee filed his return of income for the AY 2013-14 on 28-01-2015 returning the total income of Rs.5,92,000/-. A survey was conducted in the premises of M/s. A Team Information Technology Ltd. on 19-03-2014. During the course of survey, it was noticed that the following three lands near Chennai were purchased by the assessee during the financial year 2012-13 for a consideration of Rs. 6,10,36,800/- i.e., 1) 2,05,845 square feet in the Rainbow Nagar, GCS Kandilgal, Tiruvallur District vide document No. 4890/12 for Rs.2,05,84,500/-, 2) 56,656 square feet located at Rainbow Nagar, GCS Kandilgal, Tiruvallur District vide document No. 4892/2012 for Rs. 1,13,31,200/- and 3) 2,91,211 square feet located at Rainbow VIP Nagar, GCS Kandilgai, Tiruvallur District vide document No.16/13 for Rs. 2,91,21,100/-.

4. During the survey proceedings, the assessee admitted that the lands were purchased in his name and an amount of Rs.70 Lacs was

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paid from the company. However, Ld. AO alleged that the assessee made payment of Rs.70 Lacs from unexplained sources of income. The income of the assessee was not commensurate with the investment made by him. Therefore, the case was reopened and notice u/s 148 was issued on 28-03-2018. The assessee failed to make any effective response to the same and failed to substantiate the source of the investment. Left with no option, Ld. AO treated entire purchase consideration as unexplained and added the same to the income of the assessee.

5. During first appeal, the assessee submitted that he was trying to obtain loans from banks for his company so that the company could clear its debts. It was also submitted that the bank agreed to lend the loan to the company on collateral security given by the assessee individual. For this reason, the assessee acquired three parcels of land for Rs.610.36 Lacs. It was also submitted that cheque issued by the company to the seller for Rs.382.36 Lacs got dishonored too. The assessee finally submitted that it did not make any payment except initial payment of Rs.70 Lacs. However, Ld. CIT(A) rejected the same on the ground that the assessee was having legal title over the properties and enjoying peaceful possession of the same and accordingly, impugned additions were confirmed. Aggrieved, the

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assessee is in further appeal before us. The Ld. Sr. DR submitted that the assessee did not file any sale deeds etc. to substantiate its submissions. The Ld. AR, on the other hand, pleaded for another opportunity of hearing before lower authorities.

6. It is true that the assessee has legal title over the properties and enjoying peaceful possession of the same. However, the assessee has not placed on record copies of sale deed which would be crucial to ascertain true nature of the transactions. It could also be seen that the onus to prove the source of investment was on assessee but the assessee failed to discharge the same. Considering the entirety of facts of the case, we deem it fit to set aside the impugned order and restore the appeal back to the file of Ld. CIT(A) for de novo adjudication with a direction to the assessee to substantiate its case by producing sale deeds etc. or any other document in support of its claim. All the issues are kept open.

7. In the result, the appeal stand allowed for statistical purposes.

Order pronounced on 2nd April, 2024.

Sd/-

(मनोज कुमार अग्रवाल)

(Manoj Kumar Aggarwal)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 02nd April, 2024.

EDN/-

Sd/-

(मनोमोहन दास)

(Manomohan Das)

न्यायिक सदस्य/Judicial Member

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आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF