

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

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकर अपील सं. ITA No.424/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2012-13)

Ms. Juby Benny 274, 5 th Street, K.K. Pudur, Coimbatore – 641 038.	बनम/ Vs.	ITO Non- Corporate Ward 2(5), Coimbatore.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. AEBPJ-4432-N		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri D.Anand (Advocate) for Mr.T.Vasudevan (Advocate) - Ld.AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri AR V Sreenivasan (Addl.CIT)-Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	30-04-2024
घोषणा की तारीख / Date of Pronouncement	:	02-05-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. The grievance of the assessee in the captioned appeal is confirmation of addition of Rs.21.55 Lacs on account of low gross profit. The assessee also assails reassessment jurisdiction on merits. Upon perusal of assessment order dated 24.12.2019, it could be seen that the case of the assessee has been reopened by issue of notice u/s 148 on 15.03.2019. The perusal of show-cause notice dated 13.12.2019 as extracted in assessment order would show that the case has been reopened on the pretext that the assessee has shown low gross profit.

Though the assessee assailed reassessment proceedings, Ld. AO estimated Gross Profit @5% instead of 1.85% as reflected by the assessee and added differential of Rs.21.55 Lacs to the income of the assessee.

2. During appellate proceedings, the assessee reiterated that the reopening has been done merely on 'reasons to suspect' rather than 'reasons to believe'. The Ld. CIT(A) rejected the legal ground and also confirmed estimation of gross profit. Aggrieved, the assessee is in further appeal before us.

3. We are of the considered opinion that the case could be reopened only if Ld. AO has reasons to believe that certain income has escaped assessment. The reopening cannot be resorted only on suspicion that the assessee has reflected low gross profit. The Ld. AO should have some tangible material to arrive at such a conclusion. In the present case, the essential ingredients to reopen the case are clearly missing and therefore, we have no hesitation in quashing the assessment order. Consequently, delving into merits of the case has been rendered mere academic in nature.

4. The appeal stand allowed.

Order pronounced on 2nd May, 2024

Sd/-
(MANU KUMAR GIRI)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated : 02-05-2024
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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