

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

महनीय श्री मनोज कुमर अग्रवाल, लेखक सदस्य एवं
महनीय श्री मनु कुमर 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.670/Chny/2020
(निर्धारण वर्ष / Assessment Year: 2016-17)

Shri Ameer Hamja # 31, Big Mosque Street, Koranadu Mayiladuthurai-609 801.	बनम/ Vs.	ITO Ward-2, Kumbakonam.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. AHUPA-8004-F		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri N. Arjun Raj (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri AR V Sreenivasan (Addl.CIT)-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	09-05-2024
घोषणा की तारीख / Date of Pronouncement	:	13-05-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2016-17 arises out of the order of learned Commissioner of Income Tax (Appeals)-1, Trichy [CIT(A)] dated 04-06-2020 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 20-12-2018. The sole grievance of the assessee is the confirmation of addition of Rs.68 Lacs as made by Ld. AO while framing the assessment.

2. The Ld. AR submitted that there was mere grouping error. However, Ld. Sr. DR has controverted the same. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

Assessment Proceedings

3.1 The assessee is a doctor by profession. The assessee admitted income of Rs.4 Lacs. The case was scrutinized to verify the cash deposits made by the assessee in his bank accounts. The assessee deposited aggregate cash of Rs.104.24 Lacs in three bank accounts as tabulated in para 2.2 of the assessment order. The assessee, inter-alia, submitted that he obtained personal loan from HDFC Bank for 19-08-2014 for Rs.49.20 Lacs. The assessee also sold certain property during the year which was deposited in bank accounts. It was submitted that cash was withdrawn from time to time which was re-deposited. The loan amount was also re-deposited and the loan from HDFC Bank was pre-closed on 05-11-2015. The assessee submitted financial statements for FYs 2014-15 and 2015-16 in support of its submissions.

3.2 However, Ld. AO noted that the assessee's case for AY 2015-16 was also picked up for scrutiny to verify the cash deposits and an assessment was completed on 12-07-2017. In the course of those proceedings, the assessee had filed statement of affairs as on 31-03-2015 wherein cash-in-hand was shown for Rs.1.17 Lacs and payment to medical college was shown for Rs.60 Lacs. However, in the course of present proceedings, the assessee furnished statement of affairs as on 31-03-2015 wherein cash in hand was shown for Rs.61.17 Lacs as against Rs.1.17 Lacs shown in assessment proceedings of earlier year. In assessment proceedings of earlier year, the assessee had submitted

that he had availed education loan of Rs.50 Lacs from HDFC Bank and his son got medical college admission with management quota upon payment of Rs.60 Lacs. It was stated that the same was paid out of education loan availed from HDFC Bank. Therefore, finding discrepancy in the opening cash-in-hand, the differential amount of Rs.60 Lacs was added to the income of the assessee as unexplained cash credit u/s 68.

3.3 The Ld. AO made another addition of Rs.8 Lacs since in AY 2015-16, the assessee shown property sale advance of Rs.8 Lacs. The same was accepted to be source of cash deposit in that year. This property was sold on 12-10-2015 for Rs.9 Lacs. In this year again, the assessee claimed source of deposit of Rs.8 Lacs out of sale proceeds of the same property which could not be accepted. Accordingly, the amount of Rs.8 Lacs was added to the income of the assessee,

Appellate proceedings

4. The assessee furnished cash flow statement wherein the assessee claimed to have reconciled the cash withdrawals and deposits and arrived at unexplained cash of Rs.7.99 Lacs. However, the assessee started with opening cash balance of Rs.61.17 Lacs only which was contrary to submissions made / documents furnished during the course of earlier assessment proceedings. Therefore, not convinced, Ld. CIT(A) confirmed the impugned additions against which the assessee is in further appeal before us.

Our findings and Adjudication

5. It could very well be seen that the documents furnished during the course of assessment proceedings of earlier assessment year and the documents furnished during the course of present proceedings were at variance with respect to closing cash-in-hand. We are of the opinion that

it was the onus of the assessee to establish the source of cash deposited by it in his bank accounts during the year. Having failed to do so, the assessee was saddled with impugned additions. Before us also, no new material has been placed to substantiate the case. However, keeping in mind the principle of natural justice, we deem it fit to grant another opportunity to the assessee to establish the source of cash deposit and reconcile the difference in cash balance. Therefore, the matter is restored back to Ld. AO for de novo assessment after affording reasonable opportunity of hearing to the assessee. The assessee is directed to substantiate its stand failing which Ld. AO shall be at liberty to proceed with the assessment on the basis of material on record.

6. The appeal stand allowed for statistical purposes.

Order pronounced on 13th May, 2024

Sd/- (MANU KUMAR GIRI) न्यायिक सदस्य / JUDICIAL MEMBER	Sd/- (MANOJ KUMAR AGGARWAL) लेखा सदस्य / ACCOUNTANT MEMBER
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चेन्नई Chennai; दिनांक Dated : 13-05-2024
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आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

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