

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

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

**आयकरअपील सं./ ITA No.216/Chny/2023
(निर्धारणवर्ष / Assessment Year: 2012-13)**

Sudha,
A17/11, Krishnamoorthy Nagar Ext,
Rajarajan Nagar,
K.K.Nagar,
Trichy 620 021.

Vs. The Income Tax Officer,
Ward 1(3)
Trichy.

[PAN: AOTPS 7021Q]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri N. Arjun Raj, Advocate
: Shri. ARV Srinivasan, IRS, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 09.05.2024

घोषणा की तारीख /Date of Pronouncement

: 20.05.2024

आदेश / ORDER

MANU KUMAR GIRI (Judicial Member)

This appeal filed by the assessee is directed against the order No.ITBA/NFAC/S/250/2022-23/1049274699 (1) of the Ld. Commissioner of Income Tax(Appeals)(NFAC) Delhi [CIT(A)] dated 31.01.2023 for Assessment Year 2012-13.The assessment was completed by the The Income Tax Officer, Ward 1(3), Trichy vide order dated 24.12.2019.

2. The brief facts of the case are that the assessee is an individual and the managing partner of M/s Samboorna Institute of Engineering and Technology and filed her original return of income for A.Y.2012-13 on 29.12.2012. Based on the AIR information that the assessee has deposited cash amounting to Rs.46,31,000/- in her saving bank account with IDBI Bank, hence notice under section 148 of the Act was issued to examine the source of cash deposits. In response to notice under section 148 of the Act, assessee filed a return of income for A.Y.2012-13 admitting the same total income as per the original return. During the course of assessment proceedings, assessee explained that the firm of M/s Samboorna Institute of Engineering and Technology is the authorised Institute for conducting diploma course of Tamil Nadu Open University (Authorised study centre for IGNOU) and as a managing partner, a sum of Rs.58,01,974/- collected from students as fees was deposited in her bank account (the University part) and amount to the tune of Rs.52,18,500/- was transferred to university account by way of demand draft on various dates. Further amount collected from students for 'study part' reflected in the firm's account. AO rejected the explanation of the assessee holding that there was no evidence to prove that demand draft has been taken from the said account by direct debit. The bank had not issued any demand draft in favour of IGNOU against any debit from the assessee's account. Accordingly, the cash deposit of Rs.46,31,000/- made into the bank account was treated as unexplained cash credits and taxed under section 68 of the Act in the order under section 143(3) r.w.s 147 dated 24.12.2019.

3. Further, the appellant assailed the order under section 143(3) r.w.s 147 dated 24.12.2019 before the Ld. CIT(A) wherein the assessee has filed written submissions before the first appeal authority. Although Ld.CIT(A) has given seven hearings during appellate proceedings but mostly during Covid-19 period. Accordingly, the assessment was confirmed on merits against which assessee is in further appeal before us.

4. At the outset, Ld. Counsel for the appellant submitted that Ld. CIT(A) had not properly followed the principles of natural justice. Ld. Counsel for the appellant further prayed that if an adequate opportunity of hearing is given to appellant, appellant would file complete information and prosecute its case properly before the Ld. CIT(A). The Ld. Sr. DR relied upon the order of the lower authorities. The Ld. Sr. DR argued that assessee has not discharged the onus u/s 69A of the Act by proving that the cash deposit made into the bank account did not belong to her. Furthermore, Ld. Sr. DR submitted that the assessee has submitted piecemeal and disjointed pieces of information without showing the link or connection between any of them.

5. Though we appreciate the submissions of Ld. Sr. DR however, keeping in mind the principle of natural justice and to satisfy the queries/questions of the Ld.CIT(A), grant another opportunity of hearing to the assessee. Accordingly, the impugned order is set aside and the appeal is restored back to the file of Ld. CIT(A) for adjudication on merits after affording proper opportunity of hearing to the

assessee. The assessee is directed to substantiate its case with complete information/ documents as per law, failing which Ld. CIT(A) shall be at liberty to proceed with the disposal of the appeal on merits.

6. In the result, appeal filed by the assessee in ITA No.216/CHNY/2023 for assessment year 2012-2013 is allowed for statistical purpose.

Order pronounced in the open court on 20th day of May, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(**MANOJ KUMAR AGGARWAL**)

लेखा सदस्य / **ACCOUNTANT MEMBER**

Sd/-

(मनु कुमार गिरि)

(**MANU KUMAR GIRI**)

न्यायिक सदस्य / **JUDICIAL MEMBER**

चेन्नई Chennai:

दिनांक Dated :20-05-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

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