

**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.279/Chny/2024  
(निर्धारणवर्ष / Assessment Year: 2016-17)

Ramasamy Pushpa  
D. No.2/31, Sankarampalayam  
Village,  
Kumaripalayam Post,  
**Namakkal Dist 637 015.**

**Vs.** The Income Tax Officer,  
International Taxation W2 (1)  
Chennai.

**[PAN: CVWPP 7128R]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri T.S. Lakshmi Venkataraman, CA  
: Shri ARV Srinivasan, IRS, Addl. CIT.

सुनवाई की तारीख/Date of Hearing

: 13.05.2024

घोषणा की तारीख /Date of Pronouncement

: 29.05.2024

**आदेश / ORDER**

**PER MANU KUMAR GIRI (Judicial Member)**

This appeal by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-16, Chennai in order No.ITBA/APL/S/250/2023-24/1059807155 (1) dated 17.01.2024 for assessment year 2016-2017. The assessment order was passed by the Income Tax Officer,

International Taxation, Ward 2(1), Chennai u/s.147 r.w.s. 144 of the Income Tax Act, 1961 (hereinafter the "Act") vide order dated 25.05.2022.

2. The assessee has raised the following grounds of appeal:-

*"1. On the facts and circumstances of the case, the first appellate authority is not justified in not giving a finding in respect of non-issue of notice/s. 143(2) of the act before completion of assessment.*

*2. On the facts and circumstances of the case the first appellate authority in not justified in not furnishing the reasons recorded for issue of notice u/s. 148 of the Act and also copy of approval given by the higher authorities in terms of section 151 of the Act when a specific request was made by the appellant by letter dated 07.04.2022 on the above aspects in the course of assessment proceedings.*

*3. On the facts and circumstances of the case the first appeal authority is not justified in not giving a finding in respect of legal validity of the order raised by the appellant, in as much as the powers of the first appellate authority is co terminus with that of the assessing officer.*

*4. On the facts and circumstances of the case the first appellate authority is not justified in giving a finding in para 4.2 of the appellate order to the effect that when the appellant did not make use of the opportunities given before the AO, loses the voice before the first appellate authority, in as much as the first appellate authority is vested with all plenary powers which the sub ordinate authority may have in the matter. In this connection reliance is placed upon the decision of the Apex court in the case of Jute corporation of India Ltd Vs CIT reported in 187 ITR 688.*

*5. On the facts and circumstances of the case the first appellate authority is not justified in not referring the property to the valuation cell of the Income tax department in as much as the guide lines fixed by the state Government is only for the limited purpose of collection of stamp duty and does not reflect the fair market value, even though this plea was made both before AO and also before the first appellate authority.*

*6. On the facts and circumstances of the case the first appellate authority is not justified in not giving a finding as to the validity of the assessment order when there is change of incumbent and the new AO in completing the assessment without giving an opportunity.*

*7. In view of the above grounds and other submissions to be made at the time of appeal hearing the order of the lower authorities may be cancelled and justice rendered'.*

3. The brief facts of the case are that the assessee is a non-resident. According to Assessing Officer assessee has not filed her return of income for A.Y.2016-17. The case was reopened u/s 147 of the Act vide notice dated 29.03.2021 for the reason that the assessee had made transfer of capital asset during the Financial Year 2015-16 relevant to the assessment year 2016-17. In response to notice issued u/s148, the assessee has not filed return of income. The assessee jointly along with her husband had purchased an immovable property (document No.2998/2015 dated 21.08.2015) for a sale consideration of Rs.1,41,61,000/-. On perusal of the said sale deed, AO observed that the market value of the property was fixed at Rs.1,62,93,000/-. Accordingly the assessment was completed on 26.05.2022 by adding the difference of Rs.21,32,000/- u/s 56(2)(vii)(b) of the Act.

4. Being aggrieved by the assessment order dated 26.05.2022, the assessee preferred an appeal before the Ld.CIT(A). Before the Ld.CIT(A), the assessee has filed submissions, however, the Ld. CIT(A) directed the AO to adopt the income at Rs.10,66,000/- as the share of appellant is 50% only. Further with regard to basic exemption claimed, AO has been directed to verify whether the assessee is eligible for the same. On legal issues raised, Id. CIT(A) observed as under:-

*'4.2 Grounds of Appeal No.2, 3, 4, 6, 7 and 8 relate to the legal validity of the order. However, as recorded from the Assessing Officer in the assessment order, "The assessee has neither filed the return of income nor replied to any of the notices and letters issued by this office. Notice u/s 142(1) dated 16.11.2021 was issued to the assessee. As no response was forthcoming a show-cause notice was issued via E-mail by this office on 25.02.2022. Further, the assessee has also not responded to the show-cause notice issued till date of passing of this order". Similarly, in response to the draft assessment order dated 27.03.2022 also, the appellant did not respond. The appellant did not inform the Assessing Officer about the existence of a return of income which is a minimum. No objection was raised by the appellant regarding the addition proposed, change of incumbency or issue of notice u/s 148. As the appellant did not make use of the opportunities given, she loses the voice to raise the same before me.*

*4.3 Hence, Grounds of Appeal No.2, 3, 4, 6, 7, and 8 are dismissed. The reference to valuation u/s 55A does not arise when there was no objection by the appellant to the valuation".*

5. On further appeal before us, Ld. Counsel submitted that Ld.CIT(A) has not properly adjudicated the matter. Ld.CIT(A) has not given specific findings on legal issues. Hence, he prayed for set aside the matter before Ld.CIT(A) for fresh adjudication.

6. The Ld. DR, Shri ARV. Sreenivasan, Addl.CIT supported the order of Ld.CIT(A). He further submitted that there is no infirmity in the order of Ld.CIT(A).

7. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. Ld.CIT(A) in its order as referred in para 4.2 (supra) has not given sufficiently specific findings on the grounds 2,3,7 & 8 raised in appeal where return of income was filed on 07.04.2022. Therefore, we are of considered view that observation rendered by Id. CIT(A) on the grounds 2,3,7 & 8 are not specific, not free from ambiguity, indicating ill-founded in point of

law. Hence, we set aside the appeal on limited legal issues to Id. CIT(A) and direct the Id. CIT(A) to decide and give a specific finding on the ground nos.2,3,7 & 8 taken before him in appeal as per law.

8. In the result, appeal filed by the assessee in ITA No.279/Chny/2024 for assessment year 2016-2017 stands allowed for statistical purpose.

Order pronounced in the open court on 29th 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 :29-05-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

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