

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री एसएस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri Amitabh Shukla, Accountant Member

आयकर अपील सं./I.T.A. No.379/Chny/2024
निर्धारण वर्ष/Assessment Year: 2020-21

Shri Rangasamy Sekar,
No. 76, Cathedral Road,
Gopalapuram, Chennai 600 083.

Vs. The Deputy Commissioner of
Income Tax,
Non Corporate Circle 17(1),
Chennai.

[PAN: AAKPS4106P]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri K.R. Sudersan, CA
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 30.05.2024
घोषणा की तारीख /Date of Pronouncement : 05.06.2024

आदेश / O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal by the assessee is against the order dated 13.12.2023 passed by the Addl/JCIT(A)-11, Thane for the assessment year 2011-12.

2. The assessee raised Ground Nos. 1 to 6 challenging the action of first appellate authority in not directing the Assessing Officer to consider the claim on account of compensation being exempt in the given facts and circumstances of the case.

3. The Id. AR Shri K.R. Sudersan, CA submits that by inadvertent mistake, the assessee did not claim the compensation granted by the competent authority on account of compulsory land acquisition by NHAI, as exempt, in the return of income. The assessee filed a letter before the Assessing Officer claiming that the said compensation as exempt. The Assessing Officer denied the same stating that no provision in the Income Tax Act for considering a claim, without being a claim in the return of income. Having aggrieved, the assessee has challenged the same before the Id. CIT(A) and prayed to direct the Assessing Officer to consider the same, by placing reliance in the case of Goetze (India) Ltd. (2006) 284 ITR 323 (SC), the first appellate authority declined to entertain the same by stating that the assessee has not filed revised return of income for claiming the deduction.

4. Before us, the Id. AR submits that the Hon'ble Supreme Court held in the case of Goetze (India) Ltd. (supra) that the appellate authority has power to direct the Assessing Officer to consider even if it was not claimed in the original return of income. The Id. DR Shri AR V Sreenivasan, Addl. CIT reported no objection in remitting the matter to the file of the Assessing Officer.

5. Heard both the parties and perused the material available on record. Admittedly, no claim was made by the assessee in the return of income claiming the additional compensation granted by the competent authority as exempt. But, however, after realizing that the said compensation being exempt, the assessee filed a letter before the Assessing Officer, which was rejected. Aggrieved, the assessee filed an appeal before the Id. CIT(A) seeking to claim as deduction. The Id. AR brought to our notice that the return of income was filed on 02.12.2020 declaring an income of ₹.2,05,20,200/- which includes additional compensation of ₹.76,42,755/- received in respect of land acquired by the Government under REFCTLAAR Act. The return filed by the assessee was processed under section 143(1)(a) of the Income Tax Act, 1961 ["Act" in short] and intimation was passed without allowing any exemption. When the assessee has realized that the compensation is exempt under law during Covid-19 pandemic period, the prescribed time to file revised return of income was not available. The Id. DR did not dispute the same. Further, the Id. AR brought to our notice, that the compensation is exempt under the provisions of Right to Fair Competition and Transparency in Land Acquisition,

Rehabilitation and Resettlement (Amendment) Ordinance, 2014, which cannot be denied for not claiming in the return of income.

6. Admittedly, agricultural land of the assessee was acquired by NHAI for expansion of national high-way. The opinion rendered by the then Additional Solicitor General of India, which is available in page 159 of the paper book, wherein, it has been stated that Right to Fair Competition and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is applicable to the national Highways Act, 1956 also. Further, the CBDT issued Circular No. 36 of 2016 dated 25.10.2016, which is placed at page 163 of the paper book, wherein, it was clarified that the compensation received from compulsory acquisition of land under the Act viz., Right to Fair Competition and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [‘RFCTLAAR Act’] is exempt from levy of income tax. Therefore, it is clear, the compensation granted for land acquisition is not chargeable to tax under the Act, which was denied, only on the ground that no claim was made in the return of income. Taking support from the decision of the Hon’ble Supreme Court in the case of Goetze (India) Ltd. (supra), we deem it proper to remit the matter back to the file of the Assessing Officer with a direction to consider the claim of

compensation and pass order in accordance with law. The assessee is at liberty to file evidence, if any in support of his claim. Thus, the ground raised by the assessee is allowed for statistical purposes.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 05th June, 2024 at Chennai.

Sd/-
(AMITABH SHUKLA)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 05.06.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.