

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.1346/Chny/2023
निर्धारण वर्ष/Assessment Year: 2017-18

Jagathambal Ramachandran,
16/4, First Floor, Thimothis Street,
Kumarasamypet, Dharmapuri 636 701.

Vs. The Assistant Commissioner of
Income Tax,
Circle I, Hosur.

[PAN: AIFPJ5376B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Srikrishna, CA
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 05.06.2024
घोषणा की तारीख /Date of Pronouncement : 12.06.2024

आदेश / O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order dated 27.09.2023 passed by the Id. CIT(A) [NFAC], Delhi for the assessment year 2017-18.

2. The assessee has raised 7 grounds of appeal amongst which, the only effective issue arises for our consideration is to whether the Id. CIT(A) was justified in confirming the order of the Assessing Officer without there being proper opportunity to the assessee in the given facts and circumstances of the case.

3. We note that the assessee is an individual, engaged in the whole sale business and runs proprietorship concern. The assessee declared total income of ₹.11,82,860/- and under scrutiny, the Assessing Officer determined the same at ₹.65,63,700/-, inter alia, making addition under section 69A of the Income Tax Act, 1961 ["Act" in short]. On perusal of the assessment order vide para 6, we note that the Assessing Officer has issued three notices, but no compliance was made by the assessee, which means, the Assessing Officer completed the assessment in the absence of any evidence regarding the addition made therein. The Id. CIT(A) confirmed the addition made by the Assessing Officer for non-explanation of sources of deposit by way of documentary evidence, which is clear from para 5.3 of the impugned order.

4. Before us, the Id. AR Shri S.R. Srikrishna, CA filed paper book consisting of 309 pages and submits that the Accountant of assessee was suffering from Cardiac Vascular disease and due to his illness; the assessee could not able to prosecute before the Assessing Officer. He drew our attention to the medical certificates at page 1 of the paper book, submits that the case history of Accountant supports that he is unwell. He argued that the assessee is now ready to prosecute her case and referred to the evidences from page 35 to 309 of the paper book. Thus,

the Id. AR prayed to afford an opportunity to the assessee to prosecute her case before the Assessing Officer.

5. The Id. DR Shri AR V Sreenivasan, Addl. CIT vehemently opposed the same and prayed to impose cost in case the Tribunal afford an opportunity to the assessee.

6. Heard both the parties and perused the material available on record. Admittedly, there was no proper opportunity given by both the authorities below as it is visible from para 5.3 of the appellate order and para 3 & 4 of the assessment order. Since the addition was made under section 69A of the Act, in our opinion, the assessee is required to explain with the support of relevant documentary evidence. Now the assessee placed before us relevant documentary evidences like VAT registration certificate, abstract of turnover, copy of monthly returns filed with TNVAT, certificate issued by ICICI bank, bank statement, cash book, etc. As discussed above, all these were not filed before the Assessing Officer as the Accountant of the assessee was ill suffering from heart disease, which is supported by medical history from pages 1 to 33 of the paper book. Therefore, in view of the evidences filed before us supporting the claim of the assessee, we deem it proper to remand the matter to the file of the Assessing Officer for fresh consideration. The assessee shall

appear before the Assessing Officer and furnish complete details for his fresh consideration subject to the condition of payment of ₹.5,000/- towards cost in favour of the State Legal Aid Authority, Hon'ble Madras High Court within 30 days from the date of receipt of this order. 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 12th June, 2024 at Chennai.

Sd/-
(AMITABH SHUKLA)
ACCOUNTANT MEMBER

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

Chennai, Dated, 12.06.2024

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.