

आयकर अपीलिय 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.399/Chny/2024
निर्धारण वर्ष/Assessment Year: 2013-14

Devasakayam Aangilappalliparipalana Vs. The Income Tax Officer,
Sabai, 22, Vilacheri Road, Exemptions Ward,
Tirupparankundram, Pasumalai, Madurai.
Madurai 625 004.
[PAN: AAATD0964E]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri G. Akash, Advocate &
Shri G. Baskar, Advocate
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 03.01.2024 passed by the Id. CIT(A) [NFAC], Delhi for the assessment year 2013-14.

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 penalty imposed by the

Assessing Officer under section 271(1)(b) of the Income Tax Act, 1961 ["Act" in short].

3. We note that the penalty proceedings under section 271(1)(b) of the Act were initiated by the Assessing Officer for non-compliance of two notices issued under section 142(1) of the Act. According to the Assessing Officer, two notices dated 28.06.2021 and 08.02.2022 were issued asking the assessee to furnish the details required for completion of assessment proceedings. The said notices served on the assessee and there was no response to the said notices.

4. The Id. AR Shri G. Akash, Advocate drew our attention to page 3 of paper book and submits that the assessee responded to the notice dated 28.06.2021 and argued that the assessee sought time to comply with the notice as the notice under section 148 of the Act was not available in their website portal file. He submits that the findings of the Assessing Officer in respect of non-compliance to first notice dated 28.06.2021 is incorrect. Further, he drew our attention to page 8 of the paper book and argued that the assessee was not aware of notice issued under section 148 of the Act as the notice is not available in the e-proceeding of the income tax website. He submits that the facility

was not enabled in the website at that time and even long afterwards. The Id. AR submits that the assessee fully complied with the notice issued under section 142(1) of the Act and the penalty imposed by the Assessing Officer is not justified.

5. According to the Id. DR Shri AR V Sreenivasan, Addl. CIT, the assessee failed to comply with notice under section 148 of the Act in not filing the return of income and for non-compliance thereafter in response to notice under section 142(1) of the Act, the Assessing Officer was justified in imposing penalty. He drew our attention to page 1 of the paper book and further by referring to Annexure at page 2 and submits that since there was no compliance by the assessee, the Assessing Officer rightly proceeded to complete the assessment under section 144 of the Act. The Id. DR place reliance on the order passed by the Id. CIT(A).

6. Heard both the parties, perused the material available on record. We note that the Assessing Officer initiated penalty proceedings and imposed penalty under section 271(1)(b) of the Act. On perusal of page 1 of the paper book, we note that the Assessing Officer issued notice dated 28.06.2021 requesting the assessee to furnish as detailed

therein [(a) to (e)] on or before 13.07.2021. We note from the “remarks” made by the assessee at page 3 of the paper book, stating clearly that notice under section 148 was not available in the website file verifying the records for filing return of income. Further, the assessee sought time of 10 days for filing the return of income. Therefore, it is clear that the finding of the Assessing Officer for non-compliance of notice under section 142(1) of the Act is incorrect as the e-Proceedings Response Acknowledgement at page 3 clearly shows the compliance to the notice dated 28.06.2021. Further on perusal of page 8 of the paper book, which is in response to the 2nd notice dated 08.02.2022, as well as show cause notice dated 26.03.2022, wherein, it has been clearly mentioned that the assessee has been regularly filing returns of income except for the year under consideration as the notice issued under section 148 of the Act was not available in the IT website, which clearly shows that the assessee has responded to second notice dated 08.02.2022 also wherein it was stated that inspite of its efforts in the IT website, due to technical glitches, the assessee could not take note of the 2nd notice under section 142(1) of the Act dated 08.02.2022. Therefore, it is clear that the assessee complied with the notices dated 28.06.2021 and 08.02.2022. Thus, the penalty imposed by the

Assessing Officer and confirmed by the Id. CIT(A) is not justified and accordingly, the penalty levied under section 271(1)(b) of the Act is deleted. Thus, the ground raised by the assessee is allowed.

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

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.