

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

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री अमिताभ शुकला, लेखा सदस्य के समक्ष
BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER
आयकर अपील सं./ITA Nos.356/Chny/2024
निर्धारण वर्ष /Assessment Years: 2017-18

Narendradevakumar Ambika,
No.33, OSP Street, Odaiyakulam,
Pollachi, Tamil Nadu-642129.
[PAN: BLOPA2062E]

Income Tax Officer,
Ward-1,
Pollachi,

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri H.Yeshwanth Kumar, C.A.

प्रत्यर्थी की ओर से /Respondent by

: Shri ARV Srinivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 29.05.2024

घोषणा की तारीख /Date of Pronouncement

: 12.06.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2023-24/ 1058854477(1) dated 18.12.2023 of NFAC. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 18.12.2023 passed by NFAC.

2.0 Brief of the case is that the assessee is reportedly non-filer of return of income for the A.Y. 2017-18. AO observed from the AIMS module of ITBA that the assessee has made the following transactions with her bank accounts during 01-04-2016 to 31-03-2017:

3.0 a) Cash deposits made by appellant in her three bank accounts maintained with banks Syndicate Bank (A/c.No.61352200037007), with Axis Bank (A/c.No.: 913010053867388) and with South Indian Bank (Ac. and with No.: 0216053000020050) all cash deposits during the year and demonetization are to the tune of Rs.34,62,348. The AO issued notice u/s 142(1) of the Act asking for filing of Return of Income. In response, the appellant neither filed the return of income nor furnished any details. Hence, the AO reopened the assessment u/s 148 of the Act. The Assessing Officer called for documentary evidence showing the source and nature of the cash deposits. The appellant did not respond during the assessment proceedings in spite of multiple notices issued by the AO. Since the source of cash deposits was not established, the AO added the whole amount of Rs.34,62,348 to the total income of the appellant as unexplained cash u/s 69A of the act invoking provisions of section 144 of the Act.

4.0 Before the first appellate authority, the appellant had raised a single ground of appeal relating to the addition made u/s 69A. The assessee had claimed in the statement of facts that she is a widow who inherited agricultural land of 8.25 acres and cash balance of Rs.27,00,000 from her late husband. In addition, it is claimed that the

:- 3 -:

assessee had Rs.15,00,000 in her hand as cash obtained for family partition from her siblings. It is further claimed by the assessee that the aforesaid cash was deposited into her bank accounts. Though the assessee has claimed that the cash deposit made in the bank account was out of the cash balance of Rs.27.00,000/- and Rs.15,00,000/- received from her siblings, she could not furnish any documentary evidence to substantiate the cash deposits made were out of her husband's inherited property and money received from her siblings. The initial notices of Ld.CIT(A) remain unanswered hence he issued a final show cause observing as under:

“...In the interest of natural justice, the appellant was provided with further opportunities to produce the documentary evidence to explain the source of the cash deposits during the appellate proceedings as well. Notices were issued to the appellant on 15-01-2021, 10-08-2023, and on 29-08-2023, 29-08-2023 to furnish her submission and relevant documents but the appellant failed to respond. A notice giving final opportunity was issued on 09-10-2023 asking the appellant to reply by 17-10-2023 for which the appellant did not respond. The copy of the final opportunity notice to appellant is reproduced here as under...”

5.0 There was once again no response from the prosecutrix. Hence, the Ld.CIT(A) dismissed the appeal observing that *“....The appellant had stated that the cash deposits made into the bank account out of the cash balance of Rs.27.00.000/- and Rs.15,00,000/- received from her siblings, she could not furnish any documentary evidence to substantiate the claim. Though the appellant has raised a ground of appeal claiming that she is in*

:- 4 -:

possession of all the necessary documents the appellant had failed to respond to any of the notices issued by this office. A number of opportunities have been given by the Assessing Officer, and even during the appellate proceedings, the appellant had not availed the multiple opportunities provided specifically calling for evidence in support of her claim. In the above circumstances, in the absence of any explanation showing the nature and sources of cash deposits, I am constrained to dismiss the grounds of appeal raised by the assessee and uphold the addition made by the Assessing Officer...”

6.0 Before us the assessee, contesting the merits of the addition on the grounds of factual and legal parameters, submitted that there was no willful intention to not comply with the notices of the Ld.CIT(A) as the tax council engaged for the purpose did not have the ITBA password. The Ld.AR informed that the assessee is a widow and suffering from mental anxiety and pleaded that the case be set aside to AO for fresh adjudication. It was also submitted that the Ld.CIT(A) has not given any finding on the merits of the addition.

7.0 The Ld.AR vehemently opposed the submissions made by the assessee and stating that the assessee has not cooperated with either of the lower authorities and hence does not require any clemency.

: - 5 - :

8.0 We have heard rival contentions and gone through facts and circumstances of the case. We noted that the assessee was provided many opportunities by both the authorities below but assessee did not avail the opportunities but in the interest of natural justice, we are of the view that to do substantial justice one more opportunity be provided to the assessee to represent the true and clear facts before the AO and hence, we set aside the orders of the lower authorities i.e., the AO and the CIT(A) and remand the matter back to the file of the AO with a cost of Rs.5,000/- to be paid to the Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras on or before 15.07.2024. The assessee will pay this cost and produce the receipt before the AO. In term of the above, the orders of the lower authorities are set aside and matter restored back to the file of the AO for fresh adjudication de novo. Needless to say that the AO will allow reasonable opportunity of being heard to the assessee and assessee is also directed to represent his case as and when notice is issued, otherwise adverse view can be taken against the assessee. As we have set aside the appeal for fresh adjudication de novo by the AO we refrain to offer any comments on the grounds concerning merits of the addition.

: - 6 - :

9.0 In the result the appeal is partly allowed for statistical purposes.

Order pronounced on 12th June, 2024 at Chennai.

Sd/-

(यस यस विश्वनेत्र रवि)

(SS Viswanethra Ravi)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(श्री अमिताभ शुक्ला)

(Amitabh Shukla)

लेखा सदस्य / **Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 12th June, 2024.

KB/-

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