

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 No.419/Chny/2022

निर्धारण वर्ष /Assessment Years: 2017-18

Rajan Hemalatha, Flat No.C3, 3rd Floor,
61 Golden Kings Court, TAS Enclave,
10th Main Road, Anna Nagar,
Chennai-40.
[PAN: AATPH2012G]

Dy. Commissioner of Income Tax
Circle-3(2), Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri S.P.Chidambaram, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri Nilay Baran Som, CIT

सुनवाई की तारीख/Date of Hearing

: 28.05.2024

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/REV/F/REV NO.5/2021-22/1041939975(1) dated 29.03.2022 of PCIT Chennai-3. Through the aforesaid appeal the assessee has challenged order u/s 263 dated 29.03.2022 passed by PCIT, Chennai-3.

2.0 The assessee has raised grounds of appeal Nos. 1 to 7. All the grounds of appeal centering around the principle controversy of the inadmissibility of the order u/s 263 dated 29.03.2022 (Supra), the same are adjudicated together.

3.0 Brief factual matrix is that AO u/s 143(3) of the act was passed by the AO on 30.12.2019 accepting returned income as the assessed income. While concluding the same the AO observed “... *in response to the notice, the assessee has furnished details called for. The assessee’s submissions were perused and verified with the information available on record. Based on the above, the assessment is completed by accepting returned income...*”

4.0 In the order u/s 263 dated 29.03.2022 (Supra), the Ld.PCIT, Chennai-3 has observed as under. “...*The assessment for the A.Y. 2017-18 was completed u/s 143(3) of the I.T. Act on 30.12.2019 by accepting the returned income of Rs.64,70,050/-.*

2. *On perusal of the records, it is seen that there is an increase of Rs.14.84 Crores in the share premium. The sources has not been verified and recorded in the assessment Order for the huge Increase of share premium. It is also noticed that there are cash deposits made by you during the demonetization period to the extent of Rs.6.51,42,171/-. The sources of same has also not been verified and recorded in the assessment order. Further, on verification of return of income under Sch. EI stated that you have earned a dividend income of Rs.10 lakhs. The Assessing Officer has failed to make disallowance u/s.14A r.w.rule 8D on the dividend income, while completing the assessment.*

3. *In view of the above, the Assessment Order passed u/s. 143(3) of the Income Tax Act 1961 on 30.12.2019 is erroneous in so far as it is prejudicial to the interests of revenue.*

4. *Considering the above, a show cause notice u/s 263 dated 08.02,2022 was issued to the assessee calling for explanation on the*

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above mentioned issues. An opportunity of being heard personally was also granted on 21.02.2022.

5. In response of the show cause notice Shri K. M Akshay appeared on behalf of assessee and case was discussed. The assessee has submitted the following details.

"We would like to bring to your kind attention that only the following Bank Accounts are under the name of Mrs. Hemalatha Rajan in Canara Bank.

- 1. 0941132000033*
- 2. 2604116000004*

No cash deposits have been made in the account-2604116000004 and a cash deposit to an extent of Rs.11,32,000/- has only been made in the account-094113200003.

We hereby annex the bank statements of the above mentioned accounts and a document mentioning the date and amount of deposit made in 0941132000033 account.

Further, we have also annexed the bank statement of the account bearing number 0941101063904 and a letter from the Bank stating that the same is under the name of Soranammal Education."

6. It is seen that the opening capital in the name of Mrs. Hemalatha Rajan in her proprietary concern M/s. Suhanila Consultancy and Entrepreneur Training was Rs.14,60,50,599/- as on 01.04.2017 while the capital in the same concern was just Rs.11,90,959/- as on 31.03.2016 showing an increase of Rs.14,72,51,828/-. The source for this increase was not investigated by the Assessing Officer. Therefore the assessment was erroneous and prejudicial to the interest of the revenue.

7. It is also seen that there was a cash deposit of Rs.6,51,42,171/- in the bank account of M/s. Sornammal Education trust in which the Assessee is the main trustee.

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The sources for this amount as well as whether any part of this belongs to the Assessee is also to be investigated.

8. Further, on verification of return of income under Sch. EI the assessee earned a dividend income of Rs.10 lakhs. It is seen that the Assessee had taken huge loan and paid Rs.39,21,672/- as 'interest and finance cost' during the year. It is quite possible that part of the loan might have used for making investment from which exempted income is received. This issue was also not examined by the Assessing Officer.

9. In view of the above, it is clear that the assessment order passed by the AO is erroneous and prejudicial to the interests of the revenue. Therefore, I hereby set aside the assessment to the file of the Assessing Officer to make detailed enquiries on the above issues and complete the assessment after affording reasonable opportunities of being heard to the Assessee..."

5.0 It is the case of the assessee that the order of the AO is neither erroneous nor prejudicial to the interest of the Revenue and hence the Ld.PCIT, Chennai-3 did not have requisite revisionary jurisdiction to pass the impugned order u/s 263 and hence the same deserves to be quashed and set aside. The assessee has submitted that the AO has concluded the assessment after calling for all the necessary details and conducting necessary enquiries thereof.

6.0 The Ld.DR submitted that the order has been passed by the AO in a cryptic and sketchy manner without placing on record necessary material and without any examination thereof. Consequently, the assessment order falls in the domain of an order being erroneous as

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well as prejudicial to the interest of the Revenue. The Ld.DR accordingly prayed for sustaining the order of Ld.PCIT, Chennai-3.

7.0 We have heard rival submission in the light of facts of the case and material brought on records. A plain reading of the impugned order u/s 143(3) (Supra) alludes that same is indeed a cryptic and sketchy order which squarely falls into the category of a non-speaking order. There is nothing on records to indicate as to what details were called for by the AO and how were they examined. Perusal of the order u/s 263 indicates that there have been cash deposits into the bank account of the assessee which required enquiries and examination before arriving at any conclusion. There are indications of accretion in the Capital account of the proprietary concern of the assessee again requiring in depth examination. Then again, there are issues concerning earning of dividend as well as loans receipt and payments by the assessee. The Assessment Order is not at all indicative that the above transactions and any other transactions having any bearing on determination of correct taxable income of the assessee were examined in detail. Accordingly, the impugned order u/s 143(3) falls in the category of an erroneous and order prejudicial to the interest of the Revenue. Consequently, the revisionary authority exercised by the PCIT, Chennai-3 through his order 29.03.2022 has been found to be in order

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and does not requires any interference at this stage. Accordingly, all the grounds of appeal No. 1 to 7 and the appeal of the assessee are dismissed.

8.0 In the result the appeal is dismissed.

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