

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

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकरअपील सं./ ITA No.1414/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-18)
&
SP No.26/CHNY/2024
(IN ITA No.1414/Chny/2024)

Nagendran Sankara Narayan,
17, Natesan Street, VOC Nagar,
Redhills,
Chennai 600 052.

Vs. The Income Tax Officer,
Non Corporate Ward 10(3)
Chennai.

[PAN: FILPS 1880N]
(Appellant/ Petitioner)

(प्रत्यर्थी/Respondent)

Appellant and Petitioner by
Respondent by

: Shri. N.V. Balaji, Advocate
: Shri. R. Mukundan, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing : 13.06.2024
घोषणा की तारीख /Date of Pronouncement : 19.06.2024

आदेश / O R D E R

PER MANU KUMAR GIRI (Judicial Member)

The instant appeal filed by the assessee is directed against the order dated 28.03.2024 passed by the Commissioner of Income Tax (A) [In short 'CIT(A)'], arising out of the assessment order dated 29.11.2019 passed u/s section 143(3) of the Income Tax Act, 1961 (hereinafter referred as to 'the Act') by the ITO for Assessment Year 2017-18.

2. The appellant has taken following grounds of appeal:

- 1. The order of the Commissioner of Income Tax (Appeals) [CIT (A)] is against the law, the facts and circumstances of the case and the principles of equity and natural justice.*
- 2. The CIT(A) ought to have appreciated that the assessing officer completed the assessment in an arbitrary manner without objectively considering the materials available on his record.*
- 3. The CIT(A) erred in completing the proceedings without granting sufficient opportunity of being heard.*
- 4. The CIT(A) erred in sustaining the addition made by the assessing officer under section 69 of the Act without appreciating that the said provision is not applicable to the facts and circumstances of the Appellant's case.*
- 5. Without prejudice to the ground that section 69 of the Act is inapplicable to the facts and circumstances of the Appellant's case, no opinion was recorded by the AO that explanation offered by the Appellant is not satisfactory and thus, the CIT(A) erred in sustaining the addition under section 69 of the Act when the ingredients for making addition under section 69 of the Act is absent.*
- 6. The CIT(A) and AO erred in proceeding on the assumption that the cash deposits were made only out of specified bank notes without any evidence and thereby erred in ignoring the subsequent cash inflows of the appellant by way of cash sales and collections from debtors.*
- 7. The CIT(A) erred in sustaining the addition under section 69 of the Act without appreciating that the Appellant had furnished relevant documentary evidences to establish the source of cash deposits made in his bank account during the demonetization period.*
- 8. The CIT(A) ought to have appreciated that the assessing officer had not recorded any reasons to reject the documentary evidence submitted by the Appellant to establish the source of cash deposits.*
- 9. The CIT(A) ought to have held that the amended provisions of section 115BBE is not applicable for cash deposits made during the demonetisation period.*
- 10. Your Appellant prefers this appeal on these grounds and such other grounds that may be adduced before or at the time of hearing this Appeal''.*

3. The assessee has filed return of Income for the assessment year ('AY' in short) declaring income of Rs.4,62,180/-. Assessee during the demonetisation

period deposited total cash of Rs.28,92,500/- in HDFC Bank and Indian Bank. On verification of the cash book the assessee was having cash balance of Rs.22,73,418/- as on 08.11.2016 therefore, AO has given benefit of the same while making assessment and balance of Rs.6,19,081/-was treated as unexplained investment. Feeling aggrieved with the order of Assessing Officer assessee filed an appeal before the Ld.CIT(A). After adjudication, Ld.CIT(A) has dismissed the ground of the assessee and upheld the addition made by AO on account of unexplained investment of Rs. 6,19,081/-. Hence, assessee is further in appeal before us.

4. Ld.Counsel, before us prayed that in the given facts a reasonable estimate can be made restricting addition to 50% of the total addition which is not refuted by Id.DR.

5. We have heard the both parties, perused the record and the impugned order. In the light of above submission, we restrict the addition to Rs.3,09,540/- being 50% of the total addition and delete the balance addition of Rs.3,09,540/- being 50% of the total addition seeing the cash book produced before Id.CIT(A). We find that Ld.CIT(A) should have given further time to justify the debtors. Therefore, one cannot rule out genuineness of at least 50 % of debtors out of total 22 debtors.

6. In the result, the appeal filed by the assessee is partly allowed.

7. SA 26/Chny/2024

Since, we have heard the main appeal and partly allowed the appeal, therefore, no separate adjudication is required for stay application. Hence, stay application is dismissed as infructuous.

Order pronounced in the open court on 19th day of June, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई Chennai:

दिनांक Dated : 19-06-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant/ Petitioner
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF