

आयकर अपीलीय अधिकरण, बी, न्यायपीठ,चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' (SMC) BENCH, CHENNAI**

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं
श्री एस.आर. रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE HON'BLE SHRI MANU KUMAR GIRI, JM AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1713/CHNY/2024
and S P No.30/CHNY/2024
(in ITA No.1713/CHNY/2024)
निर्धारण वर्ष/Assessment Year: 2017-18

Senthurpandi Pathirakali Muthu,
No.1F152, Maghilchipuram,
Chidambaranagar S.O.
Madathur,
Tuticorin 628 008.

The Income Tax Officer,
Vs. Ward 1,
Tuticorin.

PAN: AKIPP 1641G

(अपीलार्थी/Appellant/Petitioner)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. G. Vairava Subramanian, C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri. D. Hema Bhupal

सुनवाई की तारीख/Date of Hearing : 27.06.2024

घोषणा की तारीख/Date of Pronouncement : 28.06.2024

आदेश /O R D E R

PER MANU KUMAR GIRI (Judicial Member)

This appeal filed by the assessee is directed against the order of the Ld.
Commissioner of Income Tax (Appeals)(NFAC) Delhi [CIT(A)] dated
04.10.2023 for Assessment Year 2017-18.

2. The registry has noted delay of 191 days in filing the appeal. Considering the period of delay and reasons stated at paras 1 to 12 of condonation affidavit given by the Assessee, we condone the delay and admit the appeal for adjudication.

3. The Assessee is an individual has not filed his return of income as per section 139(1). Assessee had sold an immovable property worth Rs.30,00,000/- during FY 2016-17. The case was reopened and notice u/s 148 was issued on 26.07.2022. Pursuant to notice u/s 147 a return of income was filed on 25.08.2022. The assessee has shown the sale consideration of Rs.30,00,000/- and cost of acquisition of Rs.13,20,000/- and also claimed exemption u/s 54 of Rs.16,80,000/-. during assessment proceeding, as per chart given by AO, assessee had not responded to any notice hence, AO made an addition of Rs.29,50,000/- on account of 'short term capital gain' vide order dated 12.04.2023 ex-parte u/s. 144 r.w.s147 of the Income Tax Act, 1961 ('Act' in short). Aggrieved assessee preferred an appeal before the Id.CIT(A). Assessee did not prosecute appeal before Id.CIT(A) hence, dismissed the appeal and simplicitor upheld the order of AO. Assessee is in further appeal before us.

4. At the outset, Ld. Counsel for the appellant submitted that Ld. CIT(A) had not properly followed the principles of natural justice in true spirit. Ld.CIT(A) issued three notices however, the same was not received by the

assessee. Ld. Counsel for the appellant further prayed that if an adequate opportunity of hearing is given before Id.CIT(A), assessee will prosecute the appeal properly. Ld.CIT-DR relied upon order of Id.CIT(A) and prayed for dismissal of appeal.

5. We have gone through the orders of lower authorities and submissions addressed by the parties before us. We find that Id.CIT(A) has not given effective opportunity of hearing to appellant. As per his affidavit, assessee had filed letter dated 23.05.2023 wherein appellant stated that instead of e-proceedings all communications/notices may kindly be sent manually to his address. Therefore, in the light of aforesaid factual position we deem it fit to set aside this appeal to the file of Id.CIT(A) to hear the appeal afresh, after providing proper opportunity of hearing to the assessee. The assessee is directed to substantiate its case forthwith without any fail, failing which Ld. CIT(A) shall be at liberty to proceed with the disposal of the appeal as per law. Assessee is further directed to respond notices sent by revenue through e-proceedings or sent through all permissible modes.

6. Now we take up SP No.30/Chny/2024 filed by the assessee. Since we have allowed the appeal of the assessee for statistical purpose in above terms therefore, the stay petition has become infructuous. Hence, we dismiss stay petition as infructuous.

7. In the result, appeal filed by the assessee is allowed for statistical purpose and stay petition of the assessee is dismissed.

Order pronounced in the open court on 28th June, 2024 at Chennai.

Sd/-

एस.आर. रघुनाथा
(S.R. RAGHUNATHA)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

(मनु कुमार गिरि)
(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 28th June, 2024

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.