

आयकर अपीलीय अधिकरण
कोलकाता 'सी' पीठ, कोलकाता में
IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'C' BENCH, KOLKATA

श्री राजेश कुमार, लेखा सदस्य
एवं
श्री प्रदीप कुमार चौबे, न्यायिक सदस्य
के समक्ष

Before

SRI RAJESH KUMAR, ACCOUNTANT MEMBER
&
PRADIP KUMAR CHOUBEY, JUDICIAL MEMBER

I.T.A. No.: 347/KOL/2023
Assessment Year: 2014-15

Tufail Ahmed.....*Appellant*
[PAN: AYRPA 6805 G]

Vs.

ACIT, Circle-2(1), Kolkata.....*Respondent*

Appearances:

Assessee represented by: Tufail Ahmed, Assessee.

Department represented by: Guru Bhashyam, CIT (D/R).

Date of concluding the hearing : May 16th, 2024

Date of pronouncing the order : July 5th, 2024

ORDER

Per Pradip Kumar Choubey, Judicial Member:

This appeal filed by the assessee pertaining to the Assessment Year (in short 'AY') 2014-15 is directed against the order passed u/s 147 read with Section 144C of the Income Tax Act, 1961 (in short the 'Act') by ld. ACIT, Circle2(1), Kolkata dated 27.01.2023.

2. The brief facts of the case of the appellant are that the assessee filed return of income for the AY 2014-15 in response to notice u/s 148 of the Act declaring total income at Rs. 3,750/-. The case was selected for scrutiny based on the reason that the information received in respect of purchase of

land and building by the assessee at a consideration price of Rs. 15 lakh whose stamp duty value was Rs. 23,26,000/-. But the assessee did not file return of income. Accordingly, a notice u/s 148 of the Act was issued on 31.03.2021 and asked to furnish as to one of the investments made in the immovable property amounting to Rs. 23,26,000/- be treated as unexplained investment in terms of Section 69 of the Act and added to the total income of the assessee. The assessee was also served with another notice u/s 142(1) of the Act on 26.03.2022 due to documents submitted by the assessee on 25.03.2022 not being accessible. In response to the said notice, the assessee replied on 28.03.2022. The ld. AO has passed the impugned order thereby saying that reply was lacked any discussion with regard to the charge of income u/s 56(2)(vii) of the Act amounting to Rs. 8.26 lakh. Accordingly, income u/s 56(2)(vii) of the Act amounting to Rs. 8.26 lakh has been directed to be added to the total income of the assessee. Penalty proceedings is initiated separately u/s 270A of the Act. Being aggrieved and dissatisfied with the order the assessee preferred the present appeal.

3. The ld. Counsel for the assessee in the course of argument raises a legal issue that is the issuance of notices and submitted that notice u/s 148 of the Act which has been issued is obviously time barred.

4. Since the appellant has raised legal question, so the Tribunal has to decide the legal issue first. It is clear case of the assessee that the return of income for the AY 2014-15 was filed by the assessee in response to the notice u/s 148 of the Act. The assessee has filed the screenshot of the e-proceeding tab for issuance of notice that goes to reveal that it was issued on 01.04.2021. It is important to mention here that notices must be issued before 31.03.2021. But the screenshot clearly establishes this fact that notices have been issued on 01.04.2021 and there is no explanation submitted by the ld. D/R. Keeping in view the settled law, we have got no hesitation to hold that issuance of notices is time barred. Since the enunciation of the proceedings is itself time barred, so all other factual aspects need not required to be discussed, as further order is *null and void*.

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

Order pronounced in the open Court on 5th July, 2024.

Sd/-

[Rajesh Kumar]
Accountant Member

Sd/-

[Pradip Kumar Choubey]
Judicial Member

Dated: 05.07.2024

Bidhan (P.S.)

Copy of the order forwarded to:

1. **Tufail Ahmed, S/o Khalil Ahmed, Near Mogal Masjid, Qurban road, Chandwara, Muzaffarpur, Bihar-842001.**
2. **ACIT, Circle-2(1), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata