

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER

आयकर अपीलसं./ITA No.: **810/Chny/2024**

निर्धारणवर्ष / Assessment Year: 2012-13

Malligeswari Jayamohan,
No. 31/37,
Ashtalakshmi Garden,
Besant Nagar,
Chennai – 600 090.

[PAN: AACPJ-6285-A]

(अपीलार्थी/Appellant)

अपीलार्थीकीओरसे/Appellant by

प्रत्यर्थीकीओरसे/Respondent by

सुनवाईकीतारीख/Date of Hearing

घोषणाकीतारीख/Date of Pronouncement

v. The Assistant Commissioner of
Income Tax,
Non-Corporate Circle -15(1),
Chennai.

(प्रत्यर्थी/Respondent)

: Dr. L. Natrajan CA

: Shri. G. Suresh, JCIT

: 08.07.2024

: 08.07.2024

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal by the assessee is filed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2012-13, vide order dated 23.02.2023.

2. The grounds of appeal of the assessee are :

1. Reopening of assessment U/s.147 was bad in law, based on the audit objection, which is change of opinion of the AO.

2. The Ld. CIT(A) erred in confirming the addition of Rs.1,50,75,797/- without considering the details filed.

3. Disallowance of Depreciation of Rs.78,945/-.

3. The assessee is an individual and Proprietrix of M/s.Vijay Gas Agency, a direct agency of IOCL. Assessee filed her return of Income on 30.09.2012 declaring an Income of Rs.4,83,972/- for the A.Y.2012-13. The case was selected for scrutiny under CASS and the assessment was concluded by the AO on 17/03/2015 by accepting the return of Income. Later, on the basis of audit objection notice U/s.148 was issued 29.01.2016 and the assessment was re-opened. The AO passed an order U/s.143(3) r.w.s. 147 of the Act, on 29/12/2016 with the following additions:

- | | |
|---|------------------|
| (i) Net credits in the SB A/c. For the period from 01/04/2011 to 31/03/2012 | Rs.1,50,75,797/- |
| (ii) Excess claim of depreciation - | Rs. 78,945/- |

Aggrieved by the order of the AO, assessee preferred an appeal before the Id.CIT(A).

4. The Id.CIT(A) confirmed the order of the AO without proper adjudication. Aggrieved by the order of the Id.CIT(A), the assessee is before us.

5. At the outset, it is noticed that the appeal filed by the assessee is barred by limitation by 340 days. The impugned order passed by the CIT(A) dated 23.02.2023 was served on the assessee on 23.02.2023. The appeal has to be filed on or before 23.04.2023 but it was actually filed on 25.03.2024 with a delay of 340 days. The assessee has filed affidavit along with condonation petition stating the reason that the assessee is a computer illiterate and the order of CIT(A) got transferred to Spam in the email and the orders from the website were not available due to technical errors. The Id.CIT-DR did not seriously objected to condone the delay and may be condoned with some cost. We find the cause as reasonable and hence, we condone the delay and admit the appeal by imposing a cost of Rs.5,000/- to the assessee.

6. The Id.AR stated that the Id.CIT(A) has erred in dismissing the assessee's appeal without giving proper opportunity and confirmed the order of the Id.AO which is

erroneous in law. Further the AO has made additions considering the bank credits in SB account as assessee's income in arbitrary manner and hence prayed for remanding the matter back to the file of the AO for fresh assessment.

7. The Id.DR did not raise any objections for the same.

8. We have heard both the parties and gone through the order of the Id.CIT(A). It is noted that the Id.CIT(A) has passed the impugned order, without complete participation of the assessee in the appellate proceedings. We find that, the order passed by the AO u/s. 143(3) r.w.s. 147 was also without considering any of the details while making the addition of net credits in SB account of the bank account of the assessee Rs. 1,50,75,797/-. Therefore, we deem it fit to meet the ends of justice, remit back this limited issue for denovo assessment. We direct the AO to provide reasonable opportunity to the assessee and the assessee is at liberty to furnish the written submissions along with relevant details and decide the issue afresh in accordance with law. The assessee shall deposit cost of Rs.5,000/- within 30 days from the date of receipt of this order to 'Tamil Nadu State Legal Services Authority' at Hon'ble High

Court of Madras. The proof of the same will be furnished by the Assessee before AO. Accordingly, the impugned order is set aside and the issue is restored back to the file of AO for fresh adjudication.

9. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 08th July, 2024 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष/**Vice President**

Sd/-
(एस.आर.रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 08th July, 2024

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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