

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री एसएस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri Amitabh Shukla, Accountant Member

आयकर अपील सं./I.T.A. No.816/Chny/2024
निर्धारण वर्ष/Assessment Year: 2014-15

Chairman Raja John,
No. 18, Thasami Park Residency,
Trichy Road, Singanallur,
Coimbatore 641 005.

Vs. The Income Tax Officer,
Corporate Ward 4,
Coimbatore.

[PAN: ACZPC4927F]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri P.M. Kathir, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT
सुनवाई की तारीख/ Date of hearing : 11.07.2024
घोषणा की तारीख /Date of Pronouncement : 19.07.2024

आदेश /O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order dated 31.01.2024 passed by the Id. CIT(A) [NFAC], Delhi for the assessment year 2014-15.

2. The Id. AR, Shri P.M. Kathir, Advocate, by referring to ground Nos. 1, 2 & 3, argued that the case of the assessee was selected for 'limited scrutiny' and drew our attention to para 10 of the assessment order. He argued that the Assessing Officer, during the course of 'limited scrutiny'

proceedings asked the assessee to furnish the details, which are beyond the issues got selected for 'limited scrutiny'. Further, by converting the said 'limited scrutiny' into 'complete scrutiny', intimated to the assessee only on 27.12.2016 and passed the assessment order on 30.12.2016 giving no reasonable time to the assessee. He argued that the Assessing Officer cannot go beyond the issues selected for 'limited scrutiny' and ask the details, which are not connected with the issues of 'limited scrutiny' and thus, the assessment made thereon is invalid. The Id. AR placed on record the order of the Kolkata Benches of the Tribunal in the case of Sukhdham Infrastructures LLP v. ITO in ITA No. 2611/Kol/2019 dated 23.02.2023 for the assessment year 2015-16 and argued that the Kolkata Bench Tribunal, in similar facts, held the assessment made thereon is invalid as the Assessing Officer, by examination of additional issues, beyond the issues involved in 'limited scrutiny'. The Id. AR, further drew our attention to the decision of the Hon'ble High Court of Calcutta in the case of PCIT v. Sukhdham Infrastructures LLP in ITAT No. 164 of 2023 IA No. GA/1/2023 dated 14.08.2023 and argued that the Hon'ble High court of Calcutta confirmed the order of the Tribunal.

3. The Id. DR Shri D. Hema Bhupal, JCIT relied on the assessment order and submits that the Assessing Officer, by examination of the bank

accounts of the assessee in limited scrutiny, found other issues, accordingly, requested the assessee to furnish the required details. Further, the Assessing Officer, seeking valid approval from the Competent Authority, intimated the assessee for conversion of 'limited scrutiny' into 'complete scrutiny'. He further submitted that the Id. CIT(A) has validly confirmed the order of the Assessing Officer.

4. Having heard both the parties, we note that no documentary evidences showing the issues selected for 'limited scrutiny' were brought on record by the assessee challenging the findings of the Assessing Officer in seeking the details of the additional issues besides issues involved in 'limited scrutiny'. On perusal of the order of the Kolkata Benches of the Tribunal, we find in the said case, the Assessing Officer exceeded his jurisdiction by enquiring into those issues which were not covered in the 'limited scrutiny' in terms of the notice issued under section 143(2) of the Act. Further, the Assessing Officer sought information from the assessee under section 142(1) of the Act in respect of secured and unsecured loan deposits which were also not covered under 'limited scrutiny'. Therefore, the finding of the Kolkata Benches of the Tribunal is not applicable as there was no evidence before us showing the issues involved in 'limited scrutiny' and the details of additional issues which are

not covered by 'limited scrutiny'. Therefore, we find no force in the argument of the Id. AR and thus, ground Nos. 1, 2 & 3 raised by the assessee are dismissed.

5. At the outset, we note that the assessee raised ground Nos. 4, 5 & 6 besides alternate issue in ground No. 7, admittedly, there was no opportunity for the assessee during the course of assessment proceedings as it is evident from the assessment order at para 2.2, the Assessing Officer intimated the assessee about conversion of 'limited scrutiny' into 'complete scrutiny' only on 27.12.2016 and in response to which, the AR of the assessee appeared before the Assessing Officer on 28.12.2016. Further, the assessee's AR appeared on 30.12.2016 and furnished cash book. On perusal of para 2.3 of the assessment order, which clearly shows the finding of the Assessing Officer that the assessee failed to produce documents vouchers, purchase/sale bills to substantiate the existence of trading business. Further, we note that the Assessing Officer passed the assessment order on the day itself i.e., on 30.12.2016, which is not disputed by the Id. DR, affording no opportunity to the assessee in the assessment proceedings. Therefore, taking into account the facts and circumstances of the case and in the interest of justice, we deem it proper to remand ground Nos. 4, 5, 6 & 7 to the file of the

Assessing Officer for fresh consideration. The assessee is at liberty to file evidences, if any, in support of his claim for consideration. Thus, ground Nos. 4, 5, 6 & 7 are allowed for statistical purposes.

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

Order pronounced on 19th July, 2024 at Chennai.

Sd/-
(AMITABH SHUKLA)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 19.07.2024

Vm/-

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.