

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.811/Chny/2024
निर्धारण वर्ष/Assessment Year: 2015-16

Mr. Elengovan Raju,
Block 42, First Floor, Flat E CEE DEE
YES, Chinnaipattinam, Ammapettai,
Kancheepuram, Chennai 603 108.
[PAN: AJDPR4615E]

Vs. The Income Tax Officer,
Non Corporate Ward 17(4), No. 16,
BSNL Building, Fifth Floor, Income Tax
Office, BSNL Tower, Greams Road,
Chennai 600 006.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri N. Quadir Hoseyn, Advocate &
Dr. L. Natarajan, CA
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 06.03.2024 passed by the Id. CIT(A) [NFAC], Delhi for the assessment year 2015-16.

2. The assessee raised 7 grounds of appeal, amongst which only issue emanates for our consideration as to whether the Id. CIT(A) is justified in confirming the order of the Assessing Officer without there being proper opportunity to the assessee.

3. At the outset, we note that the assessment was completed under section 147 r.w.s. 144 read with section 144B of the Income Tax Act, 1961 ["Act" in short] determining total income of the assessee at ₹.42,44,340/- as against NIL income, inter alia, making addition on account of undisclosed short term capital gain and undisclosed interest income. On perusal of the assessment order at page 5, we note that the Assessing Officer held that the assessee neither furnished any explanation or papers/documents nor ITR is filed nor any explanation regarding capital gain. The Assessing Officer proceeded to complete the assessment according to his best judgement in the absence of any explanation from the assessee. Likewise, on perusal of the order of the Id. CIT(A) at para 6.2, clearly shows that the assessee filed fresh evidence before the Id. CIT(A) without proper application seeking admission of the said fresh evidence and the Id. CIT(A) held the same as not admissible for not furnishing before the Assessing Officer having in the possession of the assessee, further for not filing proper application seeking admission of fresh evidence.

4. The Id. AR Shri N. Quadir Hoseyn, Advocate submits that the assessee furnished valuation report before the Id. CIT(A), but, however, no application filed seeking admission of the said fresh

evidence, as the assessee was not properly advised to do the same and requested to remand the matter to the file of the Assessing Officer as the assessee is ready to prosecute his case if the Tribunal afford an opportunity.

5. The Id. DR Shri D. Hema Bhupal, JCIT reported objection that the Assessing Officer and the Id. CIT(A) given many opportunities to the assessee, as the assessee failed to utilize the same.

6. As discussed above, we note from the assessment order as well as impugned order, it is established that there was no opportunity for the assessee in prosecuting his case, but, however, on the undertaken given by the Id. AR that the assessee is ready to prosecute his case before the Assessing Officer without fail, we deem it proper in the interest of justice to remand the matter back to the file of the Assessing Officer for his consideration afresh. The assessee is at liberty to file evidence in support of his claim and the Assessing Officer shall conduct the assessment proceedings *de novo*. Thus, grounds Nos. 1 to 7 are allowed for statistical purposes.

7. In the result, the appeal filed by the assessee is 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.