

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एफ", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री नवीन चंद्र, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

आअसं . 2766/दिल्ली/2014 (नि. व. 2011-12)
ITA No.2766/DEL/2014 (A.Y.2011-12)

Rajiv Jain,
11, Prem Sadan, Rajendra Place,
New Delhi 110008
PAN: AAJPJ-0074-G

..... अपीलार्थी / Appellant

बनाम Vs.

Deputy Commissioner of Income Tax
Central Circle-01,
New Delhi

..... प्रतिवादी / Respondent

अपीलार्थी द्वारा / Appellant by : None
प्रतिवादीद्वारा / Respondent by : Shri P.N. Baranwal, CIT-DR
सुनवाई की तिथि / Date of hearing : 09/07/2024
घोषणा की तिथि / Date of pronouncement : 23/07/2024

आदेश / ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)—III, New Delhi [in short 'the CIT(A)'] dated 28.02.2014, for assessment year 2011-12.

2. This appeal was first listed for hearing on 12.01.2017. On the said date, the appeal was adjourned to 03.04.20217 on written request of the counsel for the assessee. Thereafter, the appeal was adjourned from time to time on the written request of the assessee/counsel for the assessee on one pretext or the other. On some occasions Department had also sought adjournment but significantly the appeal was adjourned over the period of time at the behest of assessee. On various dates, none appeared to represent the assessee. The notice was sent to the assessee through RPAD on the address mentioned in Form No. 36. The notices sent to the assessee were returned back un-served from postal authorities with remarks 'left'. This appeal is languishing for the last 10 years in the Tribunal and has been orphaned by the assessee. It seems that the assessee is not keen to pursue this appeal any more. Therefore, we take up this appeal for adjudication with the assistance of Departmental Representative and on the basis of documents already on record.

3. The assessee in appeal has raised following grounds:-

1. That on the fact and circumstances of the case the order passed by Ld. CIT(A)-III is bad in law and nature and therefore it is liable to be quashed.

2. Because the CIT (A)-III erred in confirming the addition on account of undisclosed income

a) The Ld. A.O. has made the addition on account of merely statement made by the brother of the assessee without corroborating with the evidences found in the search and without confirming the same with the assessee and without any statement of assessee; and

b) That the Ld. CIT(A)-III failed to appreciate the fact that the Ld. A.O. has not corroborated the statement made by the brother of assessee vis-à-vis the income generated through the stock exchange allegedly stated by the brother of assessee in his statement made u/s 132(4) of the Act; and

c) The Ld. CIT(A)-III also failed to appreciate that neither the authorized officer corroborated the statement made by the brother of assessee vis-à-vis the earning of the income at the appraisal of the search period nor the Assessing officer during assessment proceedings; and

d) Because the Ld. CIT(A)-III failed to appreciate the fact that no stock exchange settles the transaction in cash and that contents of the diary was a forceful writing of the diary disclosing the income that never existed.

3. The appellant craves leave for addition, modification, alteration, amendment of any of the grounds of appeal.

4. Shri. P.N. Baranwal, representing the Department vehemently defended the impugned order and prayed for dismissing appeal of the assessee. The Id. DR has also furnished written submissions and has placed reliance on various decisions some of them are as under:-

- i. B Kishore Kumar vs. CIT [2015](62 taxmann.com 2015) (SC);*
- ii. Bhagirath Aggarwal vs. CIT [2013](31 taxmann.com) 274 (Delhi);*
- iii. Smt Dayawanti vs. CIT [2016] 75 taxmann.com 308 (Delhi);*
- iv. Raj Hans Tower (P.) Ltd. vs. CIT [2015] 56 taxmann.com 67 (Delhi); and*
- v. PCIT (C)-2 vs. Avinash Kumar Setia [2017] 81 taxmann.com 476 (Delhi).*

5. We have heard the submissions made by Id. DR and have examined the orders of authorities below. A search & seizure operation u/s. 132 of the Act was carried out in the case of Surya Vinayak Group on 03.03.2011. The assessee was also covered under the said search. The Assessing Officer (AO) vide assessment order dated 28.03.2013 passed u/s. 143(3) of the Act made addition of Rs. 18 crores on the basis of surrender letter dated 10.03.2011 filed by the assessee u/s. 132(4) of the Act.

6. Aggrieved, by the said assessment order, the assessee filed before the CIT(A). The First Appellate Authority after examining facts of the case dismissed the appeal. Hence, the present appeal by the assessee. No material is placed before the Bench to controvert findings of the CIT(A). Hence, we see no reason to interfere with the order of First Appellate Authority.

7. In the result, appeal of the assessee is dismissed and impugned order is upheld.

Order pronounced in the open court on Tuesday the 23rd day of July, 2024.

Sd/-

(NAVEEN CHANDRA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 23/07/2024

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI