

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

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

आअसं . 1576/दिल्ली/2024 (नि . व. 2011-12)
ITA No.1576/DEL/2024 (A.Y.201-12)

Anshu Priyadarshini,
103, Building-A, Lunkad Sky Lounge,
Kalyani Nagar, Pune city, PO-Yerwada,
Maharashtra-411006

..... अपीलार्थी / Appellant

बनाम Vs.

Income Tax Officer, Ward-43(4),
R.No. 2611, 26th Floor, E-2 Block,
Civic Centre, New Delhi 110002

..... प्रतिवादी / Respondent

अपीलार्थी द्वारा / Appellant by : Shri Abhinarayan Mishra, Advocate
प्रतिवादीद्वारा / Respondent by : Shri Kanv Bali, Sr. DR
सुनवाई की तिथि / Date of hearing : 14/08/2024
घोषणा की तिथि / Date of pronouncement : 14/08/2024

आदेश / ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'the CIT(A)] dated 09.02.2024, for Assessment Year 2011-12.

2. Shri Abhinarayan Mishra, appearing on behalf of the assessee submitted that the CIT(A) vide impugned order has dismissed appeal of the assessee merely, for

the reason that assessee has not paid advance tax before filing of appeal. The Id. Counsel further submitted that the Assessing Officer (AO) has made addition of Rs. 52,92,500/- u/s. 69 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). The assessee was not served with any notice; hence, the assessee could not participate in assessment proceedings initiated u/s. 148 of the Act. In fact the income of the assessee is not taxable; hence, the assessee did not file return of income. The Id. Counsel submitted that if the issue is restored back to the file of AO, the assessee would be able to substantiate that addition made u/s. 69 of the Act is not liable to be taxed in the hands of the assessee. He contended that the addition was made on account of purchase of property amounting to Rs. 52,92,500/-. The aforesaid property was purchased by the family members of the assessee and not the assessee and the source of funds for purchase of said property is explainable by the family members.

3. Per contra, Shri Kanv Bali representing the department vehemently supported the order of CIT(A). He contended that payment of advance tax is a prerequisite for admission of appeal by the CIT(A).

4. We have heard the submissions made by rival sides and have examined the orders of authorities below. The short issue in appeal is qua addition of Rs. 52,92,500/- u/s. 69 of the Act. The assessment order has been passed in ex-parte proceedings. The CIT(A) refused to entertain the appeal on the ground that the assessee has failed to pay advance tax which he was required to pay as a precondition for admission of appeal by the CIT(A). The short contention of the

assessee is that addition us. 69 of the Act has been wrongly made in the hands of the assessee, as the assessee has not purchased any property.

5. Considering the fact that the assessment was framed u/s. 144 of the Act and the CIT(A) has exited the assessee at threshold, without expressing any opinion on merits, we deem it appropriate to restore this issue back to the file of AO for *denovo* assessment after affording reasonable opportunity of making submissions to the assessee, in accordance with law.

6. The assessee shall provide correct/current address/email id for service of notice. The assessee upon service of notice shall respond to the same, without fail.

7. In the result, impugned order is set aside; appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Wednesday the 14th day of August, 2024.

Sd/-

(NAVEEN CHANDRA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 14/08/2024

NV/-

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

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.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar) ITAT, DELHI