

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI
श्री एसएस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष ।
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri Jagadish, Accountant Member

आयकर अपील सं./I.T.A. No.1198/Chny/2024
निर्धारण वर्ष/Assessment Years: 2019-20

Rajan Arputharaj Vincent Naveen,
No. 30, Aadijan Street,
Mandaveli 600 028, Chennai.

Vs. The ACIT/Dy. Commissioner of
Income Tax,
Non Corporate Ward 1(1),
Chennai.

[PAN: AHCPN5701A]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by

Shri K. Subramaniam, C.A. &
Ms. Sailas, Advocate

प्रत्यर्थी की ओर से/Respondent by

Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/ Date of hearing

14.08.2024

घोषणा की तारीख /Date of Pronouncement

21.08.2024

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 19.02.2024 passed by the Id. Commissioner of Income Tax (Appeals) /Addl/JCIT (A)-3, Bengaluru for the assessment year 2019-20.

2. We find that this appeal is filed with a delay of six days. The assessee filed a petition for condonation of delay explaining reasons for the said delay and prayed for condonation of that delay. On perusal of the condonation petition and upon hearing both the parties, we find that the

reasons explained by the assessee are bonafide and therefore, the delay is condoned.

3. The assessee raised 14 grounds of appeal amongst which, the only issue emanates for our consideration as to whether the Id. CIT(A) is justified in not considering a new plea seeking benefit under section 54/54F of the Income Tax Act, 1961 ["Act" in short].

4. We note that the assessee is an individual and filed his return of income on 17.07.2019, wherein, the CPC accepted the said return under section 143(1) of the Act vide order dated 16.11.2019, against which, the assessee instituted first appeal on 21.11.2013 with a delay of 635 days. We note that the assessee raised additional ground by stating that the assessee was prevented in claiming re-investment under section 54F of the Act, by mutual mistake of previous Authorized Representative of the assessee. The Id. CIT(A) rejected the additional ground by stating that no capital gain was declared in the return of income and hence, additional ground raised by the assessee does not arise at all.

5. Before us, the Id. AR Shri K. Subramaniam, CA drew our attention to paper book containing 44 pages and submits that the matter may be

remitted to the file of the Assessing Officer for consideration of claim of deduction under section 54F of the Act.

6. The Id. DR Ms. R. Anita, Addl. CIT vehemently opposed the same and submits that the assessee declared income of ₹.5,10,640/- under the head “business or profession” and accordingly, the CPC accepted the same. He drew our attention to page 4 of the intimation order passed by the CPC and submits that there was no liability standing on the assessee to pay any taxes as on today. The Id. DR submits that the assessee now wants to change the head of income, which is not permissible under law and supported the order of the Id. CIT(A).

7. Heard both the parties and perused the materials available on record. We note that no capital gain was declared in the return of income. The income declared therein on profit from “business or profession”. Before us, the Id. AR submits that due to mistake by the previous authorized representative and the assessee, the capital gain deduction under section 54F of the Act could not be claimed in the return of income. He placed reliance in the case of Goetze (India) Ltd. v. CIT [2006] 284 ITR 323 (SC) and argued that this Tribunal has ample power to direct the Assessing Officer to consider new plea of deduction under section 54F of the Act. We note that admittedly, no capital gain was shown in the return

of income and no claim also made under section 54F of the Act. Had the assessee been declared capital gain in the return of income and no claim under section 54F of the Act thereon, this Tribunal would have directed the Assessing Officer to consider the same by taking support from the decision of the Hon'ble Supreme Court in the case of Goetze (India) Ltd. v. CIT (supra). As discussed above, the assessee himself declared income under the head "business or profession" and no capital gain admitted. Therefore, having no declaration of capital gain in the return of income, directing the Assessing Officer to consider the claim under section 54/54F of the Act, does not arise. Further, as rightly pointed out by the Id. DR that there is no tax liability standing in the hands of the assessee, therefore, we find no infirmity in the order of the Id. CIT(A) and it is justified. Thus, the grounds raised by the assessee are dismissed.

8. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on 21st August, 2024 at Chennai.

Sd/-
(JAGADISH)
ACCOUNTANT MEMBER

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

Chennai, Dated, 21.08.2024

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.