

आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' (SMC) BENCH, CHENNAI**

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं
माननीय श्री अमिताभ शुक्ला . लेखा सदस्य के समक्ष।
**BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER
AND HON'BLE SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No.1754/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2013-2014)

Rajesh Kumar Saraf (HUF)
No.141, New No.80, Greams Road,
Thousand Lights,
Chennai 600 006.

Vs. The Income Tax Officer,
Non Corporate Ward 8(4)
Chennai.

[PAN: AAAHR 1636P]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri Anandd Babunath, C.A.,
: Ms. Gouthami Manivasagam, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing : 21.08.2024
घोषणा की तारीख /Date of Pronouncement : 26.08.2024

आदेश / ORDER

MANU KUMAR GIRI (Judicial Member)

This appeal filed by the assessee is directed against the order of the Ld. Commissioner of Income Tax (Appeals)(NFAC) Delhi [CIT(A)] dated 12.01.2024 for Assessment Year 2013-14.

2. Assessee is a Hindu Undivided Family. The return of income for AY 2013-14 was filed by the assessee on 27.11.2013 declaring total income of Rs.4,07,340/-. The case was reopened for the reason that the assessee had routed its

unaccounted income/cash by way of Exempt Income u/s 10(38) of the Act. During assessment proceedings assessee for the first time on 17.03.2022 has filed its response. The assessee has filed return of income pursuant to reopening notice u/s 148 of the Income Tax Act, 1961 ('Act' in short) on 29.01.2022 which was validated by the assessee only on 15.02.2022 through e-verification. The assessing officer treated the return of income filed on 29.01.2022 as non-est. During assessment proceedings, the assessee was not able to justify the claim of exemption of long term capital gain u/s 10(38) of the Act on sale of shares of penny stock amounting to Rs.24,24,098/-. The AO also made additions of Rs.12,65,146/- and Rs.8,787/- as per paras 11 and 12 of its order. Hence, Id.AO made total addition of Rs.36,98,031/- vide order dated 30.03.2022 u/s. 147 r.w.s 144B of the Income Tax Act, 1961 ('Act' in short). Aggrieved assessee preferred an appeal before the Id.CIT(A), who dismissed the appeal of assessee on merits although assessee failed to appear or file written submissions before the Id.CIT(A) despite three notices. Assessee is in further appeal before us.

3. At the outset, Ld.AR for the appellant submitted that Ld. CIT(A) had not properly followed the principles of natural justice in true spirit. Ld.CIT(A) within 55 days issued three notices which were inadvertently not noticed by the assessee. Ld. AR for the appellant further prayed that if an adequate opportunity of hearing is given before Id.CIT(A), assessee will prosecute the appeal properly. Ld.JCIT-DR relied upon the order of Id.CIT(A) and prayed for dismissal of appeal.

4. We have gone through the orders of lower authorities and submissions addressed by the parties before us. We are of the considered view that in the interest of justice assessee should be given one more opportunity before Id.CIT(A) to prosecute his case. Therefore, in the light of aforesaid factual position we deem it fit to set aside this appeal to the file of Id.CIT(A) to hear the appeal afresh. The assessee is directed to substantiate its case forthwith without any fail, failing which Ld. CIT(A) shall be at liberty to proceed with the disposal of the appeal as per law.

5. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 26th day of August, 2024 at Chennai.

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य / **ACCOUNTANT MEMBER**

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / **JUDICIAL MEMBER**

चेन्नई Chennai:

दिनांक Dated : 26-08-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF