

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER
आयकर अपील सं./ITA Nos.687/Chny/2022
निर्धारण वर्ष /Assessment Years: 2016-17

Anuradha
No.22, 8th Main Road,
Second Cross, Srinivasa Nagar South,
Tiruchirapalli,
Tamil Nadu-620017.
[PAN: AEWPA11215K]

The Income Tax Officer,
Ward-3(2),
Trichy

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri N.Arjun Raj, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri P.Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 01.07.2024

घोषणा की तारीख /Date of Pronouncement

: 04.09.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2022-23/1042874876(1) dated 27.04.2022 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment year 2016-17. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 27.04.2022 passed by NFAC, Delhi.

:- 2 -:

2.0 It is seen from records that there is delay of 51 days in filing of this appeal. The assessee has submitted that the delay has arisen on account of unfortunate accident of its C.A. An affidavit to this effect has been filed and the same has been placed on record. Evidences brought on record allude that there is sufficient force in the assessee's arguments. It is trite law that no litigant benefits by causing delay in its case. The delay in filing the appeal is therefore condoned and the appeal is being adjudicated as under.

3.0 Brief factual matrix of the case is that the case was selected for scrutiny to verify the source of cash deposits of Rs.97,78,750/- in the joint savings account of the assessee with the Karur Viyas Bank. During the course of assessment proceedings the Ld. AO noted that the assessee was maintaining few other bank accounts as well. The findings of the Ld. AO given in the Assessment Order are as under:

"...Apart from the above bank account, the assessee was holding the following bank accounts during the period under consideration:-

S.No.	Name of the Bank	A/C No.	Total cash deposits (In Rs_)
1.	M/s Karur Vysya Bank	1635155000052149	10000
2.	M/s Karur Vysya Bank	1177155000010392	-
3.	M/s Karur Vysya Bank	1635280000000402	1853700

:- 3 :-

4.	M/s Karur Vysya Bank	1635162000004573	80000
5.	M/s Karur Vysya Bank(in the capacity of guardian)	1635170000003286	80000
6.	M/s Karur Vysya Bank (Loan account)	1635730000000082	-
7.	M/s Karur Vysya Bank Loan account(joint account)	1635791000000043	-
8.	State Bank of India	20037060990	50000
9.	Tamil Nadu Mercantile Bank (Joint account)	019100050000189	-
	Total		20,73,700/-

The authorized representation of the assessee has furnished Cash Flow Statement to explain the source for the above cash deposits.

The same is examined as under:-

	As per cash flow statement furnished by the AR	Actual on the basis of verification	Basis for adopting actual amounts.
To Balance B/F	34,35,749/-	36,61,589/-	Cash in hand as on 31.03.2015 as per ITR 2015-16
To Business Income	8,76,906/-	5,37,402/-	As per ITR 2016-17
To H.P.Income	3,40,000/-	3,40,000/-	As per ITR 2016-17
To cash withdrawal from bank accounts	41,10,656/-	24,00,000/-	As verified from bank statements.
Total	87,63,311/-	69,38,991/-	
By Drawings	60,000/-	60,000/-	As per cash flow statement
By IT paid	58,000/-	58,000/-	As per cash flow statement
By cash deposits	24,26,119/-	20,73,700/-	As verified from

:- 4 -:

<i>in bank accounts</i>			<i>bank statements</i>
To balance C/F	62,19,193/-	46,29,292/-	Cash in hand as on 31.03.2016 as per ITR: Rs,62,17,898/-

In the Income Tax Return for the A.Y.2015-16, the assessee has admitted cash in hand as on 31.03.2015 at Rs.36,61,589/-. Further, in the return of income for the A.Y-2016-17, she has claimed cash in hand as on 31.03.2016 at Rs.62,17,898/-. After examination of the documents/details, the actual cash in hand as on 31.03.2016 arrived at Rs.46,29,292/- (as mentioned in the above table). Hence, as computed above there is a shortage of Rs.15,88,606/-{Rs.62,17,898/-(-) Rs.46,29,292/-}, for making cash deposits of Rs.20,73,700/- in the bank accounts.....”.

4.0 We have heard rival submissions in the light of material available on records. The only issue that has thus arisen in this case is the addition of Rs.15,88,606/- made by the Ld. AO as representing unexplained cash deposit in the bank account. The Ld. Counsel for the assessee argued that the Ld. AO has mixed up his findings and it is a case of misinterpretation of facts and figures on records. The tabular analysis made by the Ld. AO on Page-3 &4 of his order are also not clearly explanatory of conclusion drawn. The assessee has reportedly deposited cash of Rs.20,73,700/- in his bank account. The Ld. AO

:- 5 -:

however noted that there was a difference of Rs.15,88,606/- when a comparison was made with the cash in hand as on 31.03.2016 (Rs.62,17,898) with the cash flow statement (Rs.46,29,292). The Ld. CIT(A) confirmed the addition made by the Ld.AO by stating that that the case laws relied by the assessee were not relevant to the case. The Ld. Counsel for the assessee argued that the Ld. CIT(A) fail to appreciate that no proper opportunity was given by the Ld. AO before making the impugned addition. There is nothing on records to support that Ld. AO had confronted the assessee with his findings of shortage of cash of Rs.15,88,606/- before making the impugned addition. In the above background we are of the view that in the interest of justice and fair play, the assessee should get an opportunity of presenting its case before the Ld. AO proceeded to make.

5.0 Accordingly, we deem it fit to set aside the addition made by the Ld. AO and the order of the Ld. CIT(A) on this account. Accordingly, we set aside the order of the lower authorities with the direction to the Ld. AO to pass an assessment order de novo. The Ld. AO would give all opportunities of being heard to the assessee and the assessee shall be duty bound to comply with all the notices and details solicited by the Ld. AO. The ground of appeal raised by the assessee qua this addition is allowed for statistical purposes.

:- 6 -:

6.0 In the light of above, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 4th, September-2024 at Chennai.

Sd/-

(एबी टी. वर्की)

(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 4th, September-2024.

KB/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF