

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस.आर. रगुनाथा, लेखा सदस्य के समक्ष
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri S.R. Raghunatha, Accountant Member

आयकर अपील सं./I.T.A. Nos.1707, 1708, 1708 & 1710/Chny/2024
निर्धारण वर्ष/Assessment Years: 2013-14, 2014-15, 2015-16 & 2016-17

Neem Tree Enterprise,
No. 20/77, Jeevan Bhima Nagar, Anna
Nagar Extension, Chennai 600 101..

Vs. The Income Tax Officer,
Non Corporate Ward – 7(1),
Chennai.

[PAN: AAIFN3492M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri N. Arjun Raj, Advocate
प्रत्यर्थी की ओर से/Respondent by : Ms. Gouthami Manivasagam, JCIT
सुनवाई की तारीख/ Date of hearing : 11.09.2024
घोषणा की तारीख /Date of Pronouncement : 13.09.2024

आदेश / O R D E R

PER BENCH:

These four appeals filed by the assessee are directed against separate common order dated 27.05.2024 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi for the assessment years 2013-14 to 2016-17.

2. Since the issue raised in the appeals are similar based on the same identical facts, with the consent of the both the parties, we proceed to hear all these appeals together and pass consolidated order for the sake of convenience.

3. Let us take up appeal in ITA No. 1710/Chny/2024 as lead case for adjudication, as except change of figure, the facts are identical.

4. The assessee raised 12 grounds of appeal amongst which, the only issue emanates for our consideration in all assessment years under appeal as to whether the Id. CIT(A)/NFAC is justified in confirming the addition made by the Assessing Officer on account of income from house property in the facts and circumstances of the case.

5. The assessee is a partnership firm and no return of income filed. According to the Assessing Officer, the assessee received an amount of ₹.48,30,000/- by way of rental receipt from Nathella Sampath Jewellery Private Limited. The Assessing Officer issued notice under section 148 of the Income Tax Act, 1961 ["Act" in short], but, no return of income filed in response to the said notice. Notice under section 142(1) of the Act, the Assessing Officer requested the assessee to furnish all bank accounts, details relating to rental income, details of TDS/TCS, etc. the assessee uploaded its reply on 31.12.2021 and 21.01.2022 on ITBA portal, the submissions of which are reproduced in para 4.1 of the assessment order. The Assessing Officer did not found the submissions of the assessee acceptable, thereby, held the rental receipt of ₹.48,30,000/- are deemed to be received by the assessee and added to the total income of

the assessee and determined the income of the assessee at ₹.48,30,000/- vide his order dated 28.03.2022 passed under section 147 r.w.s. 144 r.w.s. 144B of the Act.

6. Aggrieved, the assessee challenged the same before the Id. CIT(A). The Id. CIT(A) discussed the issue in detail with reference to the written submissions filed by the assessee. It was contended before the Id. CIT(A) that no income was accrued to the assessee in the year under consideration and it was brought to the notice of the Id. CIT(A) that M/s. Nathella Sampath Jewellery Pvt. Ltd. was in the process of liquidation and the Corporate Insolvency Resolution Process (CIRP in short) is pending. Further, the said rental income when it is received will be offered to tax in the following years. The Id. CIT(A) observed that the assessee failed to rebut the observation and finding of the Assessing Officer with any evidence and confirmed the addition made by the Assessing Officer.

7. Before us, the Id. AR Shri N. Arjun Raj, Advocate reiterated the same submissions as made before the Assessing Officer and the Id. CIT(A). Further, he drew our attention to paper book page 89, which is list of Operational Creditor as on 17.10.2018 before the CIRP, wherein, it is noted that an amount of ₹.5,27,59,287/- was claimed against the assessee and also admitted. The Id. AR vehemently argued that the said

amount did not reach the hands of the assessee and cannot be charged to tax.

8. The Id. DR Ms. Gouthami Manivasagam, JCIT vehemently opposed the submissions of the Id. AR and stated that the Assessing Officer added the said amount to the total income of the assessee on the basis of deduction of TDS on the rental income. The assessee cannot deny receipt of rental income. She argued that there is no guarantee the assessee would offer rental in the year of receipt and requested the Bench to direct the assessee to bring it to the knowledge of the Assessing Officer.

9. Having heard both the parties, we note that M/s. Nathella Sampath Jewellery Pvt. Ltd. is before the CIRP in terms of the Liquidation proceedings, wherein, it is observed that the claim against the assessee admitted, which is clear from page 89 of the paper book. The said liquidation proceedings were in the knowledge of the Assessing Officer and the Id. CIT(A), but, the Id. CIT(A) observed that no evidence put forth by the assessee in support of its contention and there is no rental receipt accrued in terms of TDS. The fact remains admitted that the proceeding under CIRP is pending and the said M/s. Nathella Sampath Jewellery Pvt. Ltd. accepted the liability to pay the rental income in its books of account.

There was no evidence before us that the rental income has been received by the assessee except deduction of TDS. Therefore, when there is no income received nor accrued to the assessee, it cannot be chargeable to tax in the year under consideration. Thus, the order of the Id. CIT(A) is not justified, but, however, taking into consideration the submissions of the Id. DR, we direct the assessee to offer the said rental income to tax at the time of realization. Thus, the ground raised by the assessee is allowed for all the assessment years under appeal.

10. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 13th September, 2024 at Chennai.

Sd/-
(S.R. RAGHUNATHA)
ACCOUNTANT MEMBER

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

Chennai, Dated, 13.09.2024

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.