

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

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री जगदीश, लेखक सदस्य के समक्ष  
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND  
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1371/Chny/2024  
निर्धारण वर्ष /Assessment Year: 2013-14

L.P Ramkumar HUF,  
No.95A, Thiru Ve Ka Nagar,  
Ettupattai Bungalow Compound,  
Puthur, Trichy-620017.  
[PAN: AAGHR 6284M]

The Income Tax Officer,  
Vs. Ward-3(2),  
Tiruchirapalli.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

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

: L. Sweety, Advocate  
: Shri V. Justin, JCIT

सुनवाई की तारीख/Date of Hearing

: 22.07.2024

घोषणकी तारीख /Date of Pronouncement

: 20.09.2024

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee is against the order of Learned Commissioner of Income Tax (Appeals)-1, Trichy, [hereinafter "CIT(A)"] dated 16.07.2020 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s.143(3) of the Income Tax Act, 1961 (hereinafter "the Act") on 29.03.2016.

:- 2 -:

2. There is a delay of 999 days in filing the appeal by the assessee. The assessee has filed condonation petition stating the reasons for delay that the appeal order was passed during Covid period when there was a nation lock down. The assessee could not file appeal due to reason of Covid-19 situation and medical problems. For that, the assessee has submitted a medical certificate in support to prove his health. We have considered the reasons given by the assessee and satisfied that there was sufficient cause for not filing the appeal within the prescribed time limit. Hence, the delay is condoned accordingly.

3. The Ld. CIT(A) has passed ex-parte order on 16.07.2020 confirming the order of Ld. CIT(A) as under:

*"6. Case was then fixed for hearing on 11.06.2020 and notice dated 04.06.2020 which was served on the assessee by Notice Server. Even for this there has been no attendance, no request for adjournment and no submission of documents. It would hence appear that assessee has nothing more to say in a defence and issue has to be decided on the merits of the case.*

*7. It is seen that assessee had converted one of the land purchased into stock-in-trade for which the Assessing Officer has computed Short Term Capital Gains as under:-*

*The short term capital gain worked out as under:*

<i>Sale value of the land taken up as conversion of stock-in-trade during the year 2012-13 as discussed above.</i>	<i>Rs. 1,03,03,000/-</i>
<i>Less: Cost of the land value</i>	<i>Rs. 23, 89,942/-</i>
<i>Short term capital gain determined</i>	<i>Rs. 79, 13, 058/-</i>

:- 3 -:

8. As regards computation of business income the comments of Assessing Officer are self-explanatory which are reproduced below:-

In view of the above, it observed that the assessee has started the construction work during the year of 2012-13, relevant to the AY 2013-14 itself. Then immediately it was sold during the FY 2012-13 for a consideration of Rs. 3, 05, 24, 137/- land with building as market value. During the course of scrutiny proceedings, the representative was asked to produce the books of accounts maintained for the purpose of construction of the building. The authorised representative has not produced any books of accounts relating to the assessee's the construction work as well as the business. When compared to the valuation authorities report, it seems that the profit admitted of Rs. 25,00, 000/- on sale of building in the P&L account for the year ending 31.03.2013 is very low. The total value of the sale of the building is taken up for the profit of the construction work at Rs. 99, 18,137/- to complete the assessment for the AY 2013-14 instead of Rs.25,00, 000/- as admitted by the assessee. The difference in sale of a building. for a consideration of Rs. 74,18,137/- is treated as income of the assessee for the AY 2013-14 and added to the total income of the assessee. The business income of construction work is determined as under-

Gross profit as admitted in the profit and loss account for the year ended 31.03.2013		Rs.27,44.899/-	
Add: Value determined for sale of Rs.25,00,000/- building as discussed above	Rs. 99,18, 137/- + Rs. 74,18,137/-	Rs. 99,18,137/-	
Total		Rs.1,26,63,036/-	
Less: Cost of the building as admitted by the assessee as expenses	Rs.44,35,000/-		
Other expenses claimed in the Profit and Loss account relating assessee's other business expenses.	Rs.22,09,277/-	RS.66,44,277/-	
Business profit determined as discussed above.			Rs.60,18, 759/-

#### 9.Decision:

The assessee has nothing to say and not furnished any relevant documents. Hence, it would appear that appeal of assessee is without merit, and the same is DISMISSED.”

4. We have heard the rival submissions, and perused the materials available on record. On perusal of the order of the Ld. CIT(A), we find

: - 4 - :

that the order has been passed by Ld. CIT(A) ex-parte during Covid period for the non-compliance by the assessee. We are of the opinion that keeping in view the principles of natural justice, the assessee be provided with another opportunity of hearing to substantiate his case before the Ld. CIT(A). Accordingly, we set aside the order passed by the Ld. CIT(A) and remit the matter back to the file of the Ld. CIT(A) to adjudicate this appeal afresh in accordance with law, after giving reasonable opportunity to the assessee. We also direct the Assessee to appear before the Ld. CIT(A) on the date of hearing without fail. In view of the above, the appeal filed by the assessee is allowed for statistical purposes.

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

*Order pronounced on 20<sup>th</sup> September, 2024.*

**Sd/-**

(मनु कुमार गिरि)

**(Manu Kumar Giri)**

**न्यायिक सदस्य / Judicial Member**

**Sd/-**

(जगदीश)

**(Jagadish)**

**लेखा सदस्य / Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 20<sup>th</sup> September, 2024.

EDN/-

**:- 5 -:**

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