

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

आयकर अपील सं./I.T.A. No.1720/Chny/2024
निर्धारण वर्ष/Assessment Year: 2010-11

Chelladurai Putharasu,
No. 144/108, Raj Nivas
Gopalakrishnapuram, Athipalayam
Road, Ganapathy,
Coimbatore 641 006.

Vs. The Income Tax Officer,
Non Corporate Ward – 5(3),
Coimbatore.

[PAN: AIQPP3157M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri P.M. Kathir, Advocate
प्रत्यर्थी की ओर से/Respondent by : Ms. Gouthami Manivasagam, JCIT
सुनवाई की तारीख/ Date of hearing : 08.10.2024
घोषणा की तारीख /Date of Pronouncement : 16.10.2024

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 30.08.2022 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi for the assessment year 2010-11.

2. We find that this appeal was filed with a delay of 592 days. The assessee filed an affidavit explaining the reasons for condonation of said

delay. Upon hearing both the parties and on examination of the said affidavit, we find the reasons stated by the assessee are bonafide, which really prevented in filing the appeal in time. Thus, the delay of 592 days is condoned.

3. The assessee raised 6 grounds of appeal amongst which, the only issue emanates for our consideration as to whether the Id. CIT(A) is justified in confirming the addition made by the Assessing Officer on account of income from undisclosed sources.

4. Brief facts relating to the issue are that the Assessing Officer, on an information, found cash deposit of ₹.18,92,800/- by the assessee in his savings bank account. According to the Assessing Officer, no return of income was filed by the assessee and issued notice under section 148 of the Income Tax Act, 1961 ["Act" in short]. The assessee filed return of income declaring total income of ₹.1,20,000/-. The Assessing Officer completed the assessment proceedings, inter alia, making addition of ₹.18,92,800/- and determined total income of the assessee at ₹.20,12,800/- vide his order dated 28.11.2018 under section 143(3) r.w.s. 147 of the Act. The Id. CIT(A) confirmed the same. Having aggrieved, the assessee is in appeal before the ITAT by raising grounds forming part of

Form 36 challenging the action of the Id. CIT(A) in confirming the addition on account of undisclosed source of income.

5. The Id. AR Shri P.M. Kathir, Advocate submits that the assessee worked as cashier in a Delhi based transport company T & S Logistics Pvt. Ltd. The said employer of the assessee was in the business of transporting materials from one place to another through trucks all over the country. The assessee's duty was to pay cash for day-to-day activities of the branch office like wages for loading, unloading & advance lorry freights to Lorries along with wages to labour, advance lorry freight, local conveyance to staff, telephone bill, office rent and monthly salary to staff its branch. The said cash transactions are accounted in cash vouchers and the cash statements were sent to its regional office at Bangalore on weekend. Further, he stated that the assessee used to withdraw amounts from company's account and after meeting daily expenses deposit the cash in his savings bank account with ICICI bank for safety purpose. The Id. AR argued that the assessee was a salaried person and last drawn salary from his employer of ₹.10,000/- p.m. inclusive of all allowance. The assessee has no other personal business and his source of income is only from salary from the above said company. The Id. AR drew our attention to the bank statement from pages 15 to 25 of the appeal memo

and submits that the said account clearly shows cash withdrawn from ATM, cash withdrawn 3-4 times daily and deposits the surplus amount in his savings bank account. Further, he referred to page No. 29 and submits that the said correspondence clearly shows that the assessee was in accounts division. He referred to page 27 and submits that the assessee handed over balance cash as well as unused self cheques on his resignation. He vehemently argued that the assessee is a small salaried person and deposited cash in his savings bank account for convenience and security and prayed to allow the ground of appeal and delete the addition confirmed by the Id. CIT(A).

6. The Id. DR Ms. Gouthami Manivasagam, JCIT submits that the Assessing Officer and the Id. CIT(A) has given ample opportunities to the assessee and the assessee did not avail the same by making compliance with the objections raised by the Assessing Officer and the Id. CIT(A). She vehemently argued that there was no basis for the arguments made by the Id. AR and the ground raised by the assessee deserves to be dismissed.

7. Heard both the parties and perused the material available on record. We note that the assessee worked as a cashier in a branch transport company in Coimbatore of T & S Logistics Pvt. Ltd. having head

office at New Delhi. The assessee explained reasons for depositing cash in his savings bank account for convenience and safety purposes. On perusal of the bank statement as provided at page 15 to 25 of the appeal memo, shows about ATM withdrawals 3-4 times in a day and depositing the surplus after 3rd or 4th day, which consequently supports the arguments of the Id. AR that the assessee was depositing surplus amount in his bank account after making cash transactions by way of payment of wages for loading, unloading, wages to labour, advance lorry freight, telephone bill, local conveyance to staff, office rent and monthly salary to staff, etc. The Assessing Officer did not dispute the activity of the employee and duties of the assessee with his employer. Further, pages 19 & 20 of the paper book show the employer of the assessee was a Private Limited Company having its registered office in New Delhi, which is under liquidation. On perusal of the impugned order, we note that the assessee reiterated the same submissions as made before this Tribunal as well as authorities below. We find the Assessing Officer and the Id. CIT(A) did not accept the submissions of the assessee only on the ground that assessee could not furnish details showing nexus between the submissions of the assessee and cash deposit as found in the savings bank account. As discussed above, we find that the assessee made out a case by showing details by withdrawing cash from bank

account and deposit after meeting daily miscellaneous expenses. Therefore, we find force in the arguments of the Id. AR that all the cash deposits as found in the assessee's savings bank account belongs to the assessee's employer and no way connected with the assessee. Thus, the order of the Id. CIT(A) is not justified in confirming the addition made by the Assessing Officer on account of undisclosed source of income. Thus, the order of the Id. CIT(A) is set aside and the addition made by the Assessing Officer is deleted. Consequently, the grounds raised by the assessee are allowed.

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

Order pronounced on 16th October, 2024 at Chennai.

Sd/-
(AMITABH SHUKLA)
ACCOUNTANT MEMBER

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

Chennai, Dated, 16.10.2024

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.