

आयकर अपीलिय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD**

**BEFORE
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER
&
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

आ.अपी.सं / ITA No.822/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2014-15)

Swapna Gudipudi Hyderabad [PAN :BGGPD9298C]	Vs.	Income Tax Officer (International Taxation)-1 Hyderabad
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अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri G.Srinivasa Rao, CA
राजस्व द्वारा/Revenue by: Shri Madan Mohan Meena, SR-DR

सुनवाई की तारीख/Date of hearing: 17/10/2024
घोषणा की तारीख/Pronouncement on: 21/10/2024

आदेश / ORDER

PER MADHUSUDAN SAWDIA, A.M.:

This appeal is filed by Swapna Gudipudi ("the assessee"), feeling aggrieved with the order passed by the Commissioner of Income Tax (Appeals)-10, Hyderabad ("Ld. CIT(A)") dated 11/07/2024 for the A.Y. 2014-15.

2. At the outset, the Ld. AR submitted that if the Bench is convinced with the jurisdictional issue involved in the appeal with respect to the opening of reassessment proceedings u/s 147 of the Income tax Act, 1961

("the Act"), then the other grounds raised in the appeal will be academic only. Therefore, we first heard the Ld. AR on the jurisdictional issue.

3. The Ld.AR submitted that the notice issued by the learned Assessing Officer ("Ld. AO") under section 148 of the Act was without application of mind and therefore liable to be quashed. In support of his argument, he brought our notice to the draft assessment order passed under section 144C(1) of the Act dated 01/03/2023 (page No.13 of the paper book), in which the Ld. AO has mentioned that the assessee is a non-resident individual. Therefore, from the initiation of reassessment proceedings and till the passing of the draft order, Ld. AO was of the opinion that the assessee was a non-resident. However, while passing final assessment order u/s 147 read with section 144 of the Act, the Ld. AO mentioned the status of the assessee as resident. For this, the Ld. AR brought our notice to page No.21 of the paper book. Therefore, the final submission of the Ld. AR before us was that, the initiation of the reassessment proceedings was without application of mind on the part of the Ld. AO and is liable to be quashed.

3. Per contra, the Ld. DR relied on the order passed by the revenue authority and requested the Bench to uphold the addition made by the Ld. AO.

4. We have heard the rival submissions and gone through the records in the light of submissions made on either side. We have gone through the draft assessment order passed by the Ld. AO placed at page No.13 of the paper book and final assessment order passed by the Ld. AO which is placed at page No.21 of the paper book. On going through these documents, we found that till the passing of the draft assessment order, the Ld. AO was of the view that the assessee was a non-resident. However, while passing the final assessment order, the Ld. AO changed his mind and concluded that the assessee is a resident. Therefore, there is no dispute about the facts that the Ld. AO had initiated reassessment proceedings without application of

mind. Therefore, in our opinion the reopening of assessment proceedings was void ab-initio and consequently the order passed on the basis of same is liable to be quashed. Therefore, we quash the order passed by the Ld. AO. Accordingly, we allow the appeal of the assessee. As we have allowed the appeal of the assessee on jurisdictional ground, we did not adjudicate the other grounds.

5. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on this the 21st October, 2024.

Sd/-
(K.NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Hyderabad,
Dated: 21/10/2024
L.Rama, SPS

Copy forwarded to:

1. Swapna Gudipudi, Flat No.5C, Nandanavanam Complex, H.No.8-3-191/6, Plot No.24/A, Vengal Rao Nagar, SR Nagar, Hyderabad
2. The Income Tax Officer, International Taxation-1, Hyderabad
3. The CIT (IT&TP), Hyderabad
4. The DR, Hyderabad
5. Guard File

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