

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' 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.1417/Chny/2024
निर्धारण वर्ष /Assessment Years: 2017-18

M/s. G.Sekar, HUF,
No.1, Palat Madhavan Road,
Mahalingapuram,
Chennai-34
[PAN: AADHG6924J]

Income Tax Officer,
Non-Corp, Ward-3(5),
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri J.Vignesh, CA

प्रत्यर्थी की ओर से /Respondent by

: Ms.Gouthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing

: 07.08.2024

घोषणा की तारीख /Date of Pronouncement

: 23.10.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/APL/S/250/2023-24/1062759877(1) dated 16.03.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), for the assessment years 2017-18. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 16.03.2024 passed by First Appellate Authority, Bengaluru.

2.0 The grounds of appeal no.1 to 8 are regarding challenge to determination of taxable income at Rs.8,17,080/- as against returned income of Rs.2,17,080/-. The assessee has taken legal grounds of invalidity of assessment order per se on account of non-compliance of provision 129 r.w.s 143(2) as well as challenged merits of the addition. The assessee has also challenged validity of the assessment order on the premise that even though the case was one of limited scrutiny category, the Ld. AO converted it to , complete scrutiny without taking prior mandatory approval of his supervisory authority. The Ld. Counsel for the assessee drew our attention to the order of the Ld. CIT(A) wherein the order of the Ld. AO has been confirmed on the premise of non-submission of details and availment of opportunities. The Ld. DR relied upon the order of authorities below.

3.0 We have heard rival submissions in the light of material available on records. The order of the Ld. CIT(A) has been found to be suffering from deficiencies of being a non-speaking order. In para-5 of the order Ld. CIT(A) has stated as under:-

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“... Even though Form-35 mentions that he appellatant relied upon all the books of accounts, ledger, copies, statements, letters, agreements and supporting papers produced before the assessing officer and all the replies filed before her in response to queries raised during assessment proceedings, nothing was produced during appellate proceedings.

This is limited scrutiny assessment completed u/s 143(3) of the act to examine the claim of huge agricultural income.

The appellatant did not make any written submissions either. In the absence of the same, it is to be held that the appellatant is not interested in providing the grounds agitated for the onus rests on the appellatant.

For these reasons despite fair opportunities of being heard provided were provided not utilized and the appellatant sought only adjournments citing one reason or the other, the stand of the AO in taxing the income claimed exempt does not call for interference....”

4.0 It has been noted that the observations of Ld. CIT(A) are not inconformity with the facts on records. There is nothing in the appellate order to indicate as to when and how many opportunities were provided

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to the assessee. The Ld. CIT(A) has observed that it is a limited scrutiny case to examine claim of huge agricultural income without appreciating that the assessee had challenged conversion of limited to complete scrutiny issue in its grounds of appeal extracted by the appellate authority on page-4 of his order. The Ld. CIT(A) also failed to consider the challenge to the legality of the assessment order qua section 129 r.w.s 143(2) even though he has extracted the grounds of appeal on page-4 of his order. The observation that the assessee did not make any written submissions also appeared to be incorrect as the Ld. CIT(A) has himself extracted statement of facts on page-2 – 3 of his order which could have been considered to give some finding qua merits of the addition. Thus, the Ld. CIT(A) has passed an order without any application of mind. Be that as it may be we are of the view that ends of justice would be met if the matter is restored back to the file of the Ld. First Appellate Authority of de novo adjudication of the appeal. Accordingly, the order of Ld. CIT(A) is set aside with the directions to readjudicate the appeal afresh after giving all opportunity of being heard to the assessee. The assessee is directed to make necessary compliance to the notices and provide the Ld. CIT(A) with all required details. Accordingly, all the grounds of appeal 1 to 8 raised by the assessee are allowed for statistical purposes.

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5.0 In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 23rd, October-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: 23rd, October-2024.

KB/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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