

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. No.2136/Chny/2024
निर्धारण वर्ष/Assessment Year: 2010-11

Ayyappankavu Chandrasekharan
Vijayalakshmi, 4, Thiruvengadam
Street, West Mambalam,
Chennai 600 033.

Vs. The Assistant Commissioner of
Income Tax,
Corporate Circle 14(1),
Chennai 600 034.

[PAN:AADPV3516D]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri R. Kumar, Advocate
प्रत्यर्थी की ओर से/Respondent by : Ms. Gouthami Manivasagam, JCIT
सुनवाई की तारीख/ Date of hearing : 21.10.2024
घोषणा की तारीख /Date of Pronouncement : 29.10.2024

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 22.05.2024 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 22 days. On perusal of the petition filed in support of notarized affidavit, submissions of the Id. AR and Id. DR, we find the reasons explained by the assessee

are bonafide, which really prevented the assessee in filing the appeal in time. Thus, the delay of 22 days is condoned.

3. At the outset, we note that the Assessing Officer imposed penalty under section 271(1)(c) of the Income Tax Act, 1961 ["Act" in short] for concealment of particulars of income. On perusal of the penalty order, we note that the Assessing Officer in quantum proceedings made disallowance of ₹.1,11,44,117/- on account of sale consideration for want of vouchers. The Id. CIT(A) confirmed the addition to an extent of ₹.9,55,706/-. The assessee did not challenge the order of the Id. CIT(A) in confirming the addition to an extent of ₹.9,55,706/-.

4. The Id. AR Shri R. Kumar, Advocate submits that the Id. CIT(A) confirmed the addition to an extent of ₹.9,55,706/- for want of vouchers and the Assessing Officer initiated penalty proceedings under section 271(1)(c) of the Act for concealment of income. The Id. CIT(A) confirmed the same. The Id. AR argued that no penalty is maintainable for non-furnishing the details as the assessee truly disclosed the transaction of the sale consideration and disclosed long term capital gains. The Id. AR argued that the Hon'ble High Court of Madras, in the case of CIT v. Cafco Syndicate Shipping Co. 294 ITR 134 (Mad), held that no penalty is maintainable for want of evidence.

5. On careful reading of the decision of the Hon'ble High Court of Madras in the case of CIT v. Cafco Syndicate Shipping Co. (supra), wherein, it was held that for non-submissions of proper voucher for the expenditure incurred could not amount to concealment of income by placing reliance on the decision of the Hon'ble Supreme Court in the case of Dilip N. Shroff v. JCIT 291 ITR 519(SC). Admittedly, the Id. CIT(A) in the quantum appeal restricted the addition to an extent of ₹.9,55,706/- as against the addition of ₹.1,11,44,117/- for want of evidence supporting the expenditure. The Id. CIT(A) on examination of the same, restricted the addition to the extent above which clearly establishes that the assessee succeeded in part before the Id. CIT(A) by producing relevant evidence in support of claim of expenditure. On perusal of the penalty order, the Assessing Officer proceeded to impose penalty only on the ground for non-submission of supporting vouchers for expenditure. As discussed above, the Hon'ble High Court of Madras held that penalty is not liable for non-submission of the vouchers. Respectfully following the same, we hold that no penalty could be imposed for non-furnishing evidence as it does not amount to concealment of income. Thus, the penalty imposed by the Assessing Officer and confirmed by the Id. CIT(A) is liable to be quashed. Therefore, the penalty levied by the Assessing Officer is deleted. The grounds raised by the assessee allowed.

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

Order pronounced on 29th October, 2024 at Chennai.

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

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

Chennai, Dated, 29.10.2024

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.