

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.2148/Chny/2024
निर्धारण वर्ष/Assessment Year: 2010-11

Rathinam Sukumar,
PVR Street, Gandhi Nagar,
Namakkal 637 001.

Vs. The Income Tax Officer,
Ward 1,
Namakkal.

[PAN:CMDPS1190J]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri T.S. Lakshmi Venkataraman, F.C.A.
प्रत्यर्थी की ओर से / Respondent by : Ms. Gouthami Manivasagam, JCIT
सुनवाई की तारीख / Date of hearing : 22.10.2024
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 25.06.2024 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi for the assessment year 2010-11.

2. The assessee raised 4 grounds of appeal amongst which, the only issue emanates for consideration as to whether the Id. CIT(A) is justified in confirming the addition made by the Assessing Officer on

account of unexplained money under section 69A of the Income Tax Act, 1961 ["Act" in short].

3. At the outset, we note that the assessee is an individual, engaged in the business of transport of 2 lorries. The Assessing Officer found cash deposits to an extent of ₹.11,18,925/-, as there was no return of income filed by the assessee, the Assessing Officer issued notice under section 148 of the Act. According to the Assessing Officer, there was no response from the assessee which is reflected in para 5 of the assessment order. The Assessing Officer observed that the assessee has shown scant regard towards the Income Tax Department in furnishing a return of income or any relevant details in connection with cash deposits. Accordingly, the Assessing Officer added entire cash deposits as found in the savings bank account of the assessee to an extent of ₹.11,18,925/- to the total income of the assessee vide his order dated 23.11.2018 passed under section 144 r.w.s. 147 of the Act. The assessee challenged the same before the Id. CIT(A). According to the Id. CIT(A), no explanation nor written submissions filed with regard to the grounds raised therein challenging the addition made under section 69A of the Act and there was no response to the notices issued to the assessee, which is reflected in

para 4 of the impugned order. The Id. CIT(A), accordingly, proceeded to confirm the order of the Assessing Officer.

4. The Id. AR Shri T.S. Lakshmi Venkatraman, F.C.A., submits that the assessee studied in Tamil medium and could not complete even 12th standard. The non-appearance to the notices issued by the Assessing Officer was a mistake, but, not intention. It was contended that the cash deposits as found by the Assessing Officer are relating to transport charges for two lorries. He further submits that ₹.3,500/- alone per lorry was taxable income according to the presumptive section 44AE of the Act for the assessment year under consideration. It was vehemently contended that the Assessing Officer is not justified in assessing entire cash deposits, but, ought to have adopted peak balance in the savings bank account. He submits that the assessee is ready to furnish all relevant evidence before the Assessing Officer and thus, the Id. AR prayed that one more opportunity may be afforded to the assessee to contest his case before the Assessing Officer.

5. The Id. DR vehemently opposed the same. She drew our attention to the assessment order as well as impugned order and argued that both the authorities below given ample opportunities, but,

the assessee has failed to avail the same. She submits that the assessee does not deserve any further opportunity as the relevant assessment year is 2010-11 and requested to confirm the order of the Id. CIT(A).

6. Having heard the Id. AR and Id. DR, we note that the assessee derives income from transport charges. The Id. AR submits that the assessee has two lorries and the source for cash deposits are only from transport charges. The assessee was engaged in small transport business having no knowledge of income tax proceedings, could not appear before the authorities below. On perusal of the assessment order as well as impugned order, there was no assistance from the assessee to the notices issued by the Assessing Officer as well as Id. CIT(A). The business of the assessee is not in dispute and the cash deposits as found in the savings bank account are constitutes transport charges as also not in dispute. There was no evidence before us to claim presumptive assessment under section 44AE of the Act and moreover, in our opinion giving lorry numbers are not sufficient to charge income under the provisions of section 44AE of the Act. The submissions of the Id. AR in remanding the matter to the file of the Assessing Officer is not acceptable as the assessment year is 15 years old and no purpose will serve in

accepting the request of the Id. AR. Since the assessment year is 15 years old and there is no material evidence to show to determine the income of the assessee under the provisions of section 44AE of the Act, we deem it proper to direct the Assessing Officer to adopt 15% of the total addition of ₹.11,18,925/- i.e., ₹.1,67,639/- shall be treated as income from business and the balance of ₹.9,51,286/- [₹.11,18,925-1,67,639/-] is deleted. Thus, the ground raised by the assessee is partly allowed.

7. In the result, the appeal filed by the assessee is partly 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.