

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
मजनीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकर अपील सं. ITA No.1553/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2014-15)

Shri Ranjith Kumar 234, T.H. Road, Thirumazhisai, Chennai-600 124.	बनम/ Vs.	PCIT Chennai-1.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AANPR-5056-N		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri B. Suresh (CA) - Ld. AR (Erode)
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri S.R. Karuppusamy (CIT) - Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	23-10-2024
घोषणा की तारीख / Date of Pronouncement	:	05-11-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. By way of this appeal, the assessee assails invocation of revisionary jurisdiction u/s 263 by Ld. Pr. Commissioner of Income Tax Chennai-1 (Pr.CIT) vide impugned order dated 26-03-2024 in the matter of an assessment framed by Ld. AO u/s.143(3) r.w.s 144B of the Act on 30-03-2022. The grounds taken by the assessee are as under: -

1. The order u/s 263 is in opposition to law, facts and circumstances of the case.
2. The Ld. PCIT erred in invoking the provisions of Sec 263 for the issues mentioned in his order.

3. The conclusion of PCIT that no enquiry was conducted by AO during re-assessment is opposed facts. In fact the re-assessment was for the purpose of bringing into tax the alleged escapement of income u/s 56(2)(vii)(b).
4. The Ld. PCIT erred in not perusing the agreement for sale that was furnished to him along with reply to show cause notice u/s 263. In fact such sale agreement was part of records furnished during re-assessment proceedings.
5. PCIT cannot question the sufficiency of enquiry to be made by AO at the time of assessment/ re-assessment.
6. PCIT lacks jurisdiction to invoke Sec 263 since the matters are already dealt u/s 147.
7. PCIT erred in invoking Sec 263 about arithmetical error which is a subject matter of 154. Also the interest of revenue is not prejudiced since the entire tax on Rs.13,81,810/- was already paid.

2. The Ld. AR drew attention to the queries raised by Ld. AO during the course of reassessment proceedings and assessee's replies thereto. The Ld. AR submitted that one of the possible views was taken in the matter and therefore, the revision was not valid. The Ld. CIT-DR, on the other hand, supported the revision of the order. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

Proceedings before lower authorities

3.1 The assessee being resident individual admitted income of Rs.9.53 Lacs which was assessed u/s 143(3) on 16-12-2016. Subsequently, the case was reopened on 25-03-2021 on the ground that the assessee purchased certain property along with two others for Rs. 180.06 Lacs on 12-09-2013. However, the stamp duty value of the same was worked out to be Rs.230.10 Lacs and differential registration fees was collected by registration authority on 02-06-2014. Under these circumstances, Ld. AO proposed invocation of the provisions of Sec.56(2)(vii)(b) which provide for taxation of such differential amount. Accordingly, the difference of Rs.50.03 Lacs was proposed to be added u/s 56(2)(vii)(b) in the hands

of the assessee and other co-owners. The assessee was required to file his explanations for the same.

3.2 The assessee objected to the reopening on the ground that the property was purchased and registered on 12-09-2013. The property was received by the assessee on that date itself. Subsequently, the Government of Tamilnadu revised value of the property on 07-02-2014 and the additional stamp duty was collected on 02-06-2014. The property was not received on any of these dates. So, the requisite ingredients to invoke the provisions of Sec. 56(2)(vii)(b) were absent. The assessee also pointed out that it paid substantial sum of Rs.35 Lacs on 05-04-2013, Rs.40 Lacs on 09-04-2013 and Rs.75 Lacs on 18-05-2013 which was supported by sale agreement and therefore, the said provisions would not apply. However, Ld. AO rejected the objections vide separate order dated 10-03-2022 and proceeded to frame the assessment on the assessee.

3.3 During the course of reassessment proceedings, notices u/s 142(1) was issued to the assessee on 16-02-2022 and 16-03-2022. The assessee filed various details and replies with respect to the transaction of the property. The assessee also furnished copy of sale agreement dated 05-04-2013 to submit that the provisions of Sec. 56(2)(vii)(b) would not apply. After verification of the same, the returned income as filed by the assessee in response to notice u/s 148 was accepted by Ld. AO and Ld. AO chose not to make any addition u/s 56(2)(vii)(b). It could be concluded that Ld. AO was satisfied with the explanations of the assessee, in this regard and one of the possible views was taken on the impugned issue. Considering that fact that the assessee had paid substantial sum pursuant to the sale agreement and on the date of

registration of sale deed i.e., when the property was received by the assessee, there was no difference in the stamp duty value and the registered value, the view taken by Ld. AO could be said to be a plausible view on the given facts.

3.4 Subsequently, Ld. Pr. CIT, upon perusal of case records, proposed revision of the order and show-caused the assessee on 22-12-2023. It was alleged that the assessment was completed without making addition u/s 56(2)(vii)(b) and without considering the addition of Rs.4.27 Lacs as made on account of unaccounted investment u/s 143(3) in assessment order dated 16-12-2016. Though the assessee opposed the revision, Ld. Pr. CIT, in para-10, alleged that no agreement was entered into by the transacting parties. The claim that Ld. AO obtained satisfaction on the basis of document could not be accepted and therefore, Ld. AO was directed to re-do the assessment and examine the issues as flagged in the revisionary order. Aggrieved, the assessee is in further appeal before us.

Our Adjudication

4. As noted by us in preceding paras 3.2 and 3.3, the assessee's case was specifically reopened to examine the application of provisions of Sec.56(2)(vii)(b). The assessee's objection to reopening were specifically rejected by Ld. AO vide separate order. However, during the course of assessment proceedings, the assessee furnished explanations and documentary evidences to assail the invocation of provisions of Sec.56(2)(vii)(b). Having gone through the same and after having satisfied himself, Ld. AO accepted the claim of the assessee with due application of mind. Considering the given factual matrix, the said view of Ld. AO could be said to be one of the possible views. In such a scenario,

Ld. Pr. CIT(A), in our considered opinion, could not have substituted the opinion of Ld. AO with that of his own view unless the view of Ld. AO was shown to be perverse or not in accordance with law. Therefore, revision of the order could not be held to be justified on this score.

5. Another issue raised in the revisionary order is that Ld. AO has omitted to consider the addition of Rs.4.27 Lacs as made on account of unaccounted investment u/s 143(3) in assessment order dated 16-12-2016. In this regard, the assessee has already preferred a petition u/s 154 on 09-01-2024, a copy of which is on record. Apparently, the demand as raised on account of addition has already been satisfied by the assessee. Therefore, it would suffice on our part to direct Ld. AO to rectify the reassessment order by adopting correct income and by granting applicable deductions / tax credit to the assessee as available to him.

6. The appeal stand allowed in terms of our above order.

Order pronounced on 5th November, 2024

Sd/-	Sd/-
(MANU KUMAR GIRI)	(MANOJ KUMAR AGGARWAL)
न्यायिक सदस्य / JUDICIAL MEMBER	लेखासदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai; दिनांक Dated : 05-11-2024
DS

आदेशकीप्रतिलिपिअप्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT Chennai.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF