

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जगदीश, लेखासदस्य के समक्ष  
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1850/Chny/2024  
निर्धारण वर्ष /Assessment Year: 2023-24

V.S. Mahadeva Iyer,  
1, BPC Dealer, Courtallam Road,  
Tenkasi – 627 811.  
[PAN: AAGFV 6521M]

The Income Tax Officer,  
Vs. Ward-4,  
Tirunelveli.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri S. Sridhar, Advocate  
प्रत्यर्थी की ओर से /Respondent by : Ms. R. Anitha, Addl. CIT  
सुनवाई की तारीख/Date of Hearing : 23.10.2024  
घोषणा की तारीख /Date of Pronouncement : 23.10.2024

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee is against the order of Learned Commissioner of Income Tax, Appeal, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 03.06.2024 vide intimation issued by CPC, Bengaluru u/s.143(1) of the Income Tax Act, 1961 (hereinafter "the Act") dated 05.01.2014.

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2. The only effective ground of appeal in this appeal of assessee is against confirming the adjustment made by CPC, Bengaluru in order u/s. 143(1) of the Act disallowing the claim of remuneration to partner of Rs. 11,40,000/-.

3. The CPC, Bengaluru in order u/s. 143(1) of the Act has disallowed the claim of salary paid to partner of Rs. 11,20,000/- u/s. 40B of the Act. On appeal, the Ld. CIT(A) has confirmed the addition as he found after calling the original partnership deed, he found that the deed of partnership is suspicious.

4. Before us, The Ld. Authorized Representative (A.R) of the assessee has contended that the assessee in the return of income has claimed salary paid to partner of Rs. 11,20,000/-, but the same has been disallowed by CPC, Bengaluru without providing any opportunity. The Ld. AR has argued that the salary paid to partners do not fall under the permissible adjustment u/s 143(1)(a) of the Act, and therefore, the CPC was not justified to make the adjustment. The Ld. AR further submitted that the CPC has not provided opportunity before making such adjustment.

5. The Ld. Departmental Representative (DR), on the other hand, has relied on the orders of lower authorities.

6. We have heard the rival submissions, and perused the materials available on record. The CPC in intimation passed u/s. 143(1) of the Act has made the disallowance of remuneration to partners of Rs. 11,20,000/- claimed u/s. 40(b) of the Act. The Ld. CIT(A) has confirmed the disallowance by calling partnership deed and finding it suspicious. The Ld AR has submitted that the CPC has not provided opportunity before making such adjustment and Ld CIT(A) was not justified to hold the partnership deed suspicious and confirming adjustment made in processing u/s 143(1) on such suspicion . In view of the above, we are of the view that the assessee be provided with opportunity to substantiate his case before the A.O. Accordingly, we set aside the orders passed by the A.O and the Ld. CIT(A) and remit the matter back to the file of the A.O to adjudicate this appeal afresh in accordance with law. In view of the above, the appeal filed by the assessee is allowed for statistical purposes.

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7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

*Order pronounced in the open Court on 23<sup>rd</sup> October, 2024.*

**Sd/-**  
**(महवीर सिंह)**  
**(Mahavir Singh)**

**उपध्यक्ष / Vice President**

**Sd/-**  
**(जगदीश)**  
**(Jagadish)**

**लेखा सदस्य / Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 23<sup>rd</sup> October, 2024.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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