

आयकर अपीलिय अधिकरण
दिल्ली पीठ "जी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री रेणु जौहरी, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SMT. RENU JAUHRI, ACCOUNTANT MEMBER

आसं.2451/दिल्ली/2024 (नि.व. 2011-12)

ITA No.2451/DEL/2024 (A.Y.2011-12)

Subhash Chand,
Legal heir of late Shri Harish Chand,
64 Rori Pargana Jalalabad, Modingar,
Ghaziabad, Uttar Pradesh 201201

PAN: EDQPS-6317-K

..... अपीलार्थी/Appellant

बनाम Vs.

National Faceless Appeal Centre,
Income Tax Officer, Ward 1(3)
Delhi

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : None
प्रतिवादीद्वारा/ Respondent by : Ms. Jaya Chaudhary, Sr. DR
सुनवाई की तिथि/ Date of hearing : 02/12/2024
घोषणा की तिथि/ Date of pronouncement: : 02/12/2024

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as 'the CIT(A)') dated 14.03.2023, for assessment year 2011-12.

2. The appeal is time barred by three days. The assessee has filed an application seeking condonation of delay in filing of appeal. After perusal of application we have satisfied that delay in filing of appeal was for bonafide reasons and not on account of negligence or inaction on the part of assessee/appellant. The delay in filing of appeal is condoned and appeal is admitted for hearing on merits.

3. A perusal of file reveals that the Assessment Order has been passed u/s. 147 r.w.s. 144 of the Income Tax Act,1961(hereinafter referred to as 'the Act') and even the CIT(A) has dismissed appeal of the assessee in an ex-parte proceedings.

3.1. As per the facts emanating from records, Shri Harish Chand had sold immovable property during Financial Year 2009-10 for a total consideration of Rs.4,21,95,000/-. The sale deed was registered on 30.04.2010, i.e. during the period relevant to assessment year 2011-12. On the basis of AIR information, the Assessing Officer (AO) issued notice u/s. 148 of the Act on 23.03.2018. In the meantime Harish Chand died on 25.09.2015, and his son Subhash Chand stepped into his shoes as legal heir, since none responded to the notice u/s. 148 of the Act, the AO completed assessment invoking the provisions of section 144 of the Act and made addition of Rs.3,37,56,000/- on account of Long Term Capital Gains. Against the Assessment Order dated 12.11.2018, the assessee filed appeal before the CIT(A). The CIT(A) issued notice to the assessee on four occasions. Since there was no compliance from assessee's side, the CIT(A) dismissed the appeal of assessee in an ex-parte proceedings.

4. A perusal of statement of facts filed before the CIT(A) reveals that apart from Subhas Chand, legal heir of deceased. Harish Chand had two more sons and the

sale proceeds of agricultural land are stated to be divided among three sons of Harish Chand. However, this fact is unsubstantiated so far. Taking into consideration entire facts of the case, we deem it appropriate to restore the appeal back to AO for *denovo* assessment after affording reasonable opportunity of making submissions to the assessee, in accordance with law.

5. The assessee is directed to respond to the notice served by the AO, without fail. The assessee shall furnish his current address/email-id for service of notice to the AO within 30 days from the date of receipt of this order, if the current address of the assessee is different from the one already available with the Department.

6. In the result, impugned order is set aside and appeal of the assessee is allowed for statistical purpose,

Order pronounced in the open court on Monday the 02nd day of December, 2024.

Sd/-

(RENU JAUHRI)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 02/12/2024

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar) ITAT, DELHI