

आयकर अपीलिय अधिकरण, चण्डीगढ न्यायपीठ "एस.एम. सी", चण्डीगढ
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "SMC",
CHANDIGARH

HEARD THROUGH: HYBRID MODE

श्री संजय गर्ग, न्यायिक सदस्य
BEFORE: SHRI. SANJAY GARG, JUDICIAL MEMBER

आयकर अपील सं. / ITA No. 289/Chd/ 2024
निर्धारण वर्ष / Assessment Year : 2011-12

Ramesh Kumar Garg, House No. 873, Sector 10, Panchkula, Haryana-134109	बनाम	The ITO Panchkula
स्थायी लेखा सं. / PAN NO: BOCPG9837G		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारिती की ओर से/ Assessee by : Shri Amitoz Singh Kamboj, C.A
राजस्व की ओर से/ Revenue by : Dr. Ranjeet Kaur, Sr. DR

सुनवाई की तारीख/ Date of Hearing : 14/11/2024
उदघोषणा की तारीख/ Date of Pronouncement : 04/12/2024

आदेश/ Order

Per Sanjay Garg, Judicial Member :

The present appeal has been preferred by the Assessee against the order of the Ld. Commissioner of Income-tax (Appeal), ADDL/JCIT(A)-6, Kolkata (hereinafter referred to as the "Ld. CIT(A) dt. 24/01/2024 pertaining to Assessment Year 2011-12.

2. The Assessee in its appeal has taken four grounds of appeal.

3. Vide Ground No. 1, the assessee has contested the validity of reopening of the assessment under section 148 of the Act. Since Ground No. 1 is not pressed the same is accordingly dismissed.

4. Vide Ground No. 2, assessee has contested the addition of Rs. 1,81,940/- made by the lower authorities treating the said amount as income from undisclosed sources, rejecting the claim of the assessee that the same was the business income of the assessee.

5. At the outset the Ld. Counsel for the assessee has submitted that assessee's wife namely Smt. Rajni Garg was engaged in a very small scale business of trading in Handlooms. The total receipt from the aforesaid business were of Rs. 4 to 5 lacs only, out of which it offered Rs. 1,81,940/- as her business income under section 44AD of the Act. Lower authorities however, made impugned addition observing that the corresponding evidence such as bills and vouchers relating to aforesaid business were not produced. It was therefore treated as unaccounted income of the assessee.

6. I have considered the rival contentions. The aforesaid income of Rs. 1,81,940/- was offered by the wife of the assessee in the income tax return under section 44AD of the Income Tax Act, 1961 (hereinafter referred to as the "Act"). She was not required to maintain books of account as the return was filed under section 44AD of the Act. Considering the very small scale business of total gross receipt of Rs. 4 to 5 Lacs only, it can be assumed that the necessary evidence relating to the business may not have been presumed by her. Under the circumstances I do not find justification on the part of lower authorities

in making the impugned addition in the hands of the assessee and the same is accordingly ordered to be deleted.

7. Vide Ground No. 3, the assessee has contested the addition of Rs. 77,332/-, Rs. 4,697/- and Rs. 13,200/- on account of notional interest in respect of interest free advances given by the wife of the assessee.

8. Ld. Counsel for the Assessee in this respect has submitted that Wife of the assessee had advanced small amount of interest free loans amounting to Rs. 3,50,000/-, Rs. 2,00,000/- and Rs. 3,50,000/- to her near and dear ones. That the aforesaid loan was advanced out of interest free funds available with the wife of the assessee. He in this respect also invited my attention to the impugned order of the Ld. CIT(A) to submit that the only reason given for aforesaid addition / disallowance was due to the fact that the assessee had not filed regular return of income.

9. I find that the Ld. CIT(A) himself has mentioned that the assessee had also received interest free advances from some concerns. The amount of Rs. 3,50,000/-, Rs. 2,00,000/- and Rs. 3,50,000/- was advanced by Wife of the assessee to near and dear ones. I therefore do not find justification on the part of lower authorities in making the impugned addition and the same is ordered to be deleted.

10. Ground No. 4 is general in nature.

11. In view of my findings given above, the additions made / confirmed by the Ld. CIT(A) are ordered to be deleted.

12. In the result appeal of the Assessee is stands partly allowed.

Order is pronounced on 04/12/2024

Sd/-
संजय गर्ग
(SANJAY GARG)
न्यायिक सदस्य / JUDICIAL MEMBER

Date: 04/12/2024

AG

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant
Registrar