

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष ।
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri Jagadish, Accountant Member

आयकर अपील सं./I.T.A. No.2180/Chny/2024
निर्धारण वर्ष/Assessment Year: 2011-12

Shri Roopanand Ramachandran,
No. 307, Lloyds Road,
Royapettah, Chennai 600 014.
[PAN:AAIPR3151P]

Vs. The Income Tax Officer,
Non Corporate Ward 12(2),
Greams Road Chennai 600 006.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri V. Dhanasekaran, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri C. Murugesan, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 28.11.2024
घोषणा की तारीख /Date of Pronouncement : 19.12.2024

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 27.06.2024 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi for the assessment year 2011-12 challenging exparte order of the Id. CIT(A) against levy of penalty under section 271(1)(c) of the Income Tax Act, 1961 ["Act" in short].

2. At the outset, the Id. AR Shri V. Dhanasekaran, Advocate submits that the quantum addition for AY 2011-12 in assessee's case did not

attain its finality and pending before the Id. CIT(A) by virtue of the directions of the Tribunal vide its order dated 20.12.2020 in ITA No. 2533/Chny/2019 for fresh adjudication, copy of the order is placed on record. He further submits that the Id. CIT(A) has not issued any notice of hearing against quantum addition so that the assessee could furnish documents and evidence in support of his claim, instead, the Id. CIT(A) issued notice for the appeal against penalty order passed by the Assessing Officer, is not correct, despite the prayer of the assessee to keep the penalty appeal in abeyance until adjudication of quantum appeal. The Id. AR prayed that the penalty levied under section 271(1)(c) of the Act may be remanded to the file of the Id. CIT(A) to consider both quantum addition as well as penalty under section 271(1)(c) of the Act.

3. The Id. DR Shri C. Murugesan, Addl. CIT vehemently opposed the same and submitted that the assessment proceedings and penalty proceedings are separate and the assessee failed to avail various opportunities afforded by the Id. CIT(A) and the Assessing Officer for furnishing explanation and the documentary evidences, if any. He strongly supported the order passed by the Id. CIT(A).

4. Having heard both the parties, we note that assessment is completed under section 144 of the Act dated 18.12.2018 assessing total

income of the assessee at ₹.36,25,000/-. On appeal, the Id. CIT(A) confirmed the addition vide his order dated 01.07.2019, against which, the assessee preferred an appeal before the ITAT. The ITAT vide its order dated 20.10.2020 in ITA No. 2533/Chny/2019 remanded the matter back to the file of the Id. CIT(A) to adjudicate the matter after considering relevant documents as may be filed by the assessee and we note that the appeal against quantum addition is still pending for adjudication. Considering the facts and circumstances of the case and in the interest of justice, we deem it proper to remand the matter to the file of the Id. CIT(A) to adjudicate levy of penalty under section 271(1)(c) of the Act along with quantum addition after considering the documentary evidences as may be filed by the assessee in accordance with law. The assessee is at liberty to file evidence in support of his claim. Thus, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced on 19th December, 2024 at Chennai.

Sd/-
(JAGADISH)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 19.12.2024

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.