

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'D' 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. Nos.3345 & 3346/Chny/2024
निर्धारण वर्ष/Assessment Years: 2016-17 & 2017-18

Murugan,
1/135, North Street, Vellur B.O.
Srivaikundam, Tuticorin 628 621.

Vs. The Income Tax Officer,
Ward 1(1),
Tuticorin 628 002.

[PAN:ABEPM5354N]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by

Shri R. Thulasi Ram, Advocate,
: Shri Sathish Kumar, Advocate &
Shri Kumar Subramanian, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri A. Sasikumar, CiT

सुनवाई की तारीख/ Date of hearing

: 26.02.2025

घोषणा की तारीख /Date of Pronouncement

: 05.03.2025

आदेश /O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

Both the appeals filed by the assessee are directed against separate orders dated 19.11.2024 and 05.11.2024 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi for the assessment years 2016-17 and 2017-18 respectively.

2. Since issues raised in both the appeals are similar based on the same identical facts, with the consent of the both the parties, we proceed to hear the appeals together and pass consolidated order for the sake of convenience.

3. First, we shall take appeal in ITA No. 3345/Chny/2024 for AY 2016-17 for adjudication.

4. The only effective ground raised by the assessee is as to whether the Id. CIT(A) justified in dismissing the appeal exparte the assessee by confirming the addition made by the Assessing Officer under section 69A of the Income Tax Act, 1961 ["Act" in short] in the facts and circumstances of the case.

5. We note that the assessee is an individual and did not file his return of income for assessment year under consideration. As per the AIMS records, the Assessing Officer noted that the assessee had contract receipt of ₹.3,87,26,759/- and also made cash deposits in savings account of ₹.17,92,100/-. The Assessing Officer issued statutory notices requiring the assessee to file the return of income and details, but, however, there was no response from the assessee even against the show-cause notice issued by the Assessing Officer. After

analysing 26AS, in the absence of any compliance by the assessee against various notices issued and the assessee has not offered the income for taxation, the Assessing Officer estimated 10% of the contract receipts from the Divisional Engineer Highways of ₹.19,27,559/- and added ₹.1,92,756/- to the total income of the assessee under the head "income from business or profession". Further, the Assessing Officer noted that the assessee had deposited cash of ₹.17,92,000/- into HDFC Bank. Since, the assessee has failed to furnish any explanation regarding the source of such money, the Assessing Officer treated the same as unexplained cash deposits under section 69A of the Act and added to the total income of the assessee. On appeal, the Id. CIT(A) confirmed the addition since the assessee could not furnish any details in response to the notices issued by the Id. CIT(A).

6. The Id. AR Shri R. Thulasi Ram, Advocate that non appearance of the assessee before the Id. CIT(A) is neither wilful nor deliberate but due to circumstances beyond his control. He further submits that the authorised representative did not properly represented assessee's case before the Id. CIT(A). The Id. AR further submits that the assessee has details of source of money for ₹.17,92,000/-, but,

however, not filed before the Assessing Officer and the Id. CIT(A) and prayed to remand the matter to the file of the Id. CIT(A) to consider the documents and decide the issue on merits.

7. The Id. DR Shri A. Sasikumar, CIT opposed the same and drew our attention to para 3.3 in page 2 and para 7 in page 6 of the assessment order as well as para 4 of the impugned order and argues that the Assessing Officer and Id. CIT(A) afforded ample opportunities to the assessee, but, it was not availed. He vehemently argued that costs may be imposed in case this Tribunal afford an opportunity by remanding the matter to the file of the CIT(A).

8. Heard both the parties and perused the material on record. We note that the assessment was completed under section 147 r.w.s. 144 r.w.s. 144B of the Act dated 28.03.2022. On perusal of the assessment order as well as impugned order, we note that there was no assistance from the assessee to the statutory notices and show-cause notice issued by the Assessing Officer as well as hearing notices issued by the Id. CIT(A). We also note that the Assessing Officer issued the show-cause notice issued and served on 15.03.2022 proposing additions to assessee's total income for AY 2016-17, but, the assessee

has not furnished any reply with regard to the proposed addition towards unexplained cash deposits. Taking into consideration of the submissions of the Id. AR and the Id. DR and in the interest of justice, we deem it proper to remand the matter to the file of the Id. CIT(A) subject to the condition of payment of ₹.5,000/- in favour of the State Legal Aid Authority, Hon'ble Madras High Court within 30 days from the date of receipt of this order and the Id. CIT(A) shall satisfy the payment of cost and decide the issue afresh after considering the written submissions/ documentary evidences as may be filed by the assessee to substantiate his claim. Thus, the grounds raised by the assessee are allowed for statistical purposes.

ITA No. 3346/Chny/2024: AY 2017-18

9. Similar issues on identical facts have been raised by the assessee in his appeal for AY 2016-17 and we have remitted the matter to the file of the Id. CIT(A) with a condition of payment of ₹.5,000/- in favour of the State Legal Aid Authority, Hon'ble Madras High Court within 30 days from the date of receipt of this order and decide the issue afresh herein above. Similarly, for the assessment year 2017-18 also on similar condition of payment of ₹.5,000/- in favour of the State Legal Aid Authority, Hon'ble Madras High Court within 30

days from the date of receipt of this order, the matter is remitted to the file of the Id. CIT(A) for fresh consideration on similar footings.

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

Order pronounced on 05th March, 2025 at Chennai.

Sd/-
(JAGADISH)
ACCOUNTANT MEMBER

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

Chennai, Dated, 05.03.2025
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.