

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. No.3352/Chny/2024
निर्धारण वर्ष/Assessment Year: 2010-11

Sudha Ramani,
Flat A3, 862, Siddharth Manor,
Poonamallee High Road, Kilpauk,
Chennai 600 010.

Vs. The Income Tax Officer,
Non Corporate Ward 10(3),
Chennai.

[PAN:AHEPR9857M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri R. Venkata Raman, C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri A. Sasikumar, CIT
सुनवाई की तारीख/ Date of hearing : 25.02.2025
घोषणा की तारीख /Date of Pronouncement : 07.03.2025

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 17.10.2024 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi for the assessment year 2010-11.

2. The assessee raised 3 grounds of appeal, amongst which, the only issue emanates for consideration as to whether the Id. CIT(A) is justified

in remanding the matter to the file of the Assessing Officer in the facts and circumstances of the case.

3. At the outset, we note that the assessee is an individual and no return of income filed for the assessment year under consideration. According to the Assessing Officer, a property was purchased in the name of the assessee by her husband for a consideration of ₹.65,00,000/-, of which ₹.30,00,000/- was paid to Mrs. Neha Shah and ₹.35,00,000/- was paid to Mrs. Ashish Shah. The case of the assessee was reopened in order to verify the investment in the immovable property. The reassessment was completed, inter alia, making addition of ₹.30,00,000/- towards unexplained investment, under section 147 r.w.s. 144 of the Income Tax Act, 1961 ["Act" in short]. We note that out of total investment of ₹.65,00,000/-, the Assessing Officer treated only a sum of ₹.30,00,000/- as unexplained investment.

4. Having aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Id. CIT(A) by filing a petition under Rule 46A of Income Tax Rules, 1962 for admission of additional evidence substantiating the source for investment in the immovable property. The Id. CIT(A) treated the said additional evidences as new evidence and called for remand report from the Assessing Officer. After

considering the remand report and submissions of the assessee, the Id. CIT(A) remanded the matter to the file of the Assessing Officer for making a fresh assessment without adjudicating on merits of the case.

5. The Id. AR Shri R. Venkata Raman, C.A. drew our attention the remand report dated 28.02.2020 forwarded by the Jurisdictional Assessing Officer to the Id. CIT(A), which is placed at page 1 of the paper book and submits that the Jurisdictional Assessing Officer examined the details furnished by the assessee, held that the assessee has duly explained the sources for investments in house property and requested the Id. CIT(A) to consider the claim of the assessee. The Id. AR vehemently argued that the Id. CIT(A) should have given relief to the assessee by considering the positive remand report of the Jurisdictional Assessing Officer, instead of remanding the matter to the file of the Assessing Officer, is not justified. Thus, the Id. AR prayed to decide the issue on merits and give relief to the assessee.

6. The Id. DR Shri A. Sasikumar, CIT submits that the Id. CIT(A) rightly set aside the assessment order and remanded back to the file of the Assessing Officer for fresh assessment in view of the amendment brought in by way of insertion of first proviso to section 251(1)(a) of the Act and prayed to dismiss the ground raised by the assessee.

7. Heard both the parties and perused the material available on record. We note that the assessee explained that, the source of payments to the vendors are out of home loan sanctioned by the HDFC to an extent of ₹.50,00,000/- and payments by her husband to an extent of ₹.15,00,000/-. In support of the said contention, we find, that the assessee filed copy of sale deed dated 08.05.2009, copy of HDFC bank statement of assessee's husband, copies of confirmation regarding disbursement of HDFC bank loan, copy of Form 16 of assessee's husband and copy of bank statement showing proof of repayment before the Id. CIT(A) as well as during the course of remand proceedings. During the course of remand proceedings, the Assessing Officer considered the same and filed remand report before the Id. CIT(A), which is at page 1 of the paper book. On perusal of the said remand report, we note that the Assessing Officer clearly stated that the assessee has duly explained the source of investment in house property and requested the Id. CIT(A) to consider the same, but, however, the Id. CIT(A) remanded the matter to the file of the Assessing Officer for fresh consideration.

8. We note that the Assessing Officer, in the remand report clearly observed that the assessee submitted various details showing the source for the investment in the house property and held the source for the said

immovable property was explained, inspite of which, the Id. CIT(A), without considering the same, remanded the matter to the file of the Assessing Officer for his consideration, in our opinion, is not justified. The Id. CIT(A) ought to have considered the addition on the basis of remand report of the Assessing Officer instead of remand. We find, no finding is given by the Id. CIT(A) in the impugned order that the issue require further enquiry by the Assessing Officer and in the absence of which, we find no purpose would serve by simply remanding the matter to the file of the Assessing Officer. We find no force in the argument of the Id. DR that the order of the Id. CIT(A) is correct in remanding the matter to the file of the Assessing Officer in view of the amendment brought in by way of insertion of first proviso to section 251(1)(a) of the Act. We note that the said amendment came into effect from 01.10.2024, wherein, the Id. CIT(A) has power to remand the matter to the file of the Assessing Officer for fresh consideration in case of an assessment order passed under section 144 of the Act. However, in the present case, we find that the Assessing Officer himself has given positive remand report after verification of details, which clearly shows that there is no further enquiry required in this regard. Therefore, taking into account the remand report dated 28.02.2020, we hold that the assessee duly explained the source of investment in house property and the addition made by the Assessing

Officer in the assessment order and as confirmed by the Id. CIT(A) is deleted. Thus, the grounds raised by the assessee are allowed.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 07th March, 2025 at Chennai.

Sd/-
(JAGADISH)
ACCOUNTANT MEMBER

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

Chennai, Dated, 07.03.2025

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.