

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL 'D' BENCH, CHENNAI
श्री जॉर्ज जॉर्ज के., उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI GEORGE GEORGE K., VICE-PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपीलसं./ITA Nos.: 304 and 305/Chny/2025
निर्धारण वर्ष / **Assessment Year: 2015-16**

Revathikumar Sudha,
29, 3rd Main Road, Thilaignanga
Nagar, Chennai 600 061.

Vs. The Assistant Commissioner of
Income Tax,
Non Corporate Ward –19(1),
Chennai.

[PAN: AZTPS-8926-R]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri N. Arjun Raj, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri A. Sasi Kumar, CIT
सुनवाई की तारीख/ Date of hearing : 19.03.2025
घोषणा की तारीख /Date of Pronouncement : 17.04.2025

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

Both the appeals filed by the assessee are directed against separate orders passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, under section 250 of the Income Tax Act, 1961 ["Act" in short] both dated 12.12.2024 pertains to the assessment year 2015-16 towards quantum addition as well as penalty levied under section 271(1)(c) of the Act.

2. The assessee raised 15 grounds of appeal, wherein, besides challenging exparte order of the Id. CIT(A), the assessee also disputed the reopening of assessment under section 147 of the Act.

3. Brief facts of the case are that the assessee is an individual and filed his return of income for AY 2015-16 on 30.09.2015 declaring total income at ₹.14,14,820/-. Subsequently, the case was selected for scrutiny under CASS and assessment was completed under section 143(3) of the Act on 28.12.2017 by accepting the returned income of the assessee. Subsequently, the Assessing Officer noted that as per the information with the department that the assessee had purchased an immovable property (vacant land) to an extent of 3.00 acres for a total consideration of ₹.1,50,00,000/-. As per guideline value, the value worked out to ₹.7,82,28,000/- and as per the provisions of section 56 of the Act, any immovable property without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property, which is not to be excluded from the total income and it shall be chargeable to tax under the head 'income from other sources'. Further, the Assessing Officer noted that the assessee had purchased capital asset for total consideration of ₹.1,50,00,000/- for which TDS under section 194IA of the Act was to be deducted @1% which was not done by the assessee. Since the Assessing Officer satisfied that the income arised out of difference of stamp duty value and purchase consideration of immovable property chargeable to tax has escaped assessment, proceedings under section 147 of the Act was initiated by issuing notice under section 148 of the Act. However, the assessee did

not file his return of income against the notice under section 148 of the Act. Thereafter, the Assessing Officer issued various notices under section 142(1) of the Act. Against the notice under section 142(1) of the Act dated 31.12.2021, the assessee filed copy of acknowledgement of ITR filed on 30.09.2015, computation of income, P&L account, balance sheet & schedules. No other details with explanation and documentary evidence, as called for vide notice under section 142(1) of the Act has been furnished by the assessee. The Assessing Officer finally issued show-cause notice under section 144 of the Act, but, there was no response from the assessee. Thus, the Assessing Officer proceeded to complete the assessment under section 147 r.w.s. 144 r.w.s. 144B of the Act dated 26.03.2022 by making addition towards difference of stamp duty valuation and purchase consideration of the immovable property i.e., 6,32,38,000/- [₹.7,82,28,000 minus ₹.1,50,00,000] and added to the total income of the assessee. Further, the Assessing Officer made addition of ₹.7,82,280/- since the assessee has not deducted and paid TDS @1% of total consideration. On appeal, the Id. CIT(A) dismissed the appeal of the assessee for want of prosecution since the assessee could not respond to various hearing notices issued by the Id. CIT(A) dated 31.05.2024, 06.06.2024 & 02.07.2024. On being aggrieved, the assessee carried the matter in appeal before the Tribunal.

6. The Id. AR Shri N. Arjun Raj, Advocate, drew our attention to the printout of e-portal website screenshots placed at page 16 to 18 of the paper and submitted that the assessee has duly responded to various notices issued by the Assessing Officer and the Assessing Officer omitted to consider the same during the course of assessment proceedings. Further, the Id. AR drew our attention to Form 35 filed by the assessee, wherein, the e-mail address mentioned is suprabathconstruction @yahoo.com, whereas, the Id. CIT(A) issued notices to a different e-mail ID of sudhaannai71@gmail.com, copy of the same are placed on record. Thus, the Id. Counsel for the assessee prayed that the assessee may be afforded reasonable opportunity of being heard to the assessee to substantiate his case before the Assessing Officer.

7. The Id. DR Shri A. Sasi Kumar, CIT fairly conceded that the matter may be remitted to the file of the Assessing Officer for fresh consideration.

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 26.03.2022. On perusal of the assessment order as well as impugned order, we note that there was no assistance from the assessee to the notices issued by the Assessing Officer as well

as hearing notices issued by the Id. CIT(A). We note from the printout of e-portal website screenshots placed in the paper book that the assessee has filed replies to the notices issued by the Assessing Officer, but, the same were not considered. Moreover, we find that the Id. CIT(A) issued the notices to a wrong e-mail ID. Under the above facts and circumstances, we deem it proper to remand the matter to the file of the Assessing Officer to decide the issue afresh by affording reasonable opportunity of being heard to the assessee after considering the submissions/ documentary evidences, if any, as may be filed by the assessee to substantiate his claim.

9. With regard to the issue of reopening of assessment under section 147 of the Act, the Assessing Officer is directed to follow the guidelines issued by the Hon'ble Supreme Court in the case of Union of India v. Ashish Agarwal dated 04.05.2022 [2022 SCC Online SC 543] in view of the amendment made under section 148 of the Act and thereafter proceed to decide the issue on merits in accordance with law. Thus, the grounds raised by the assessee are allowed for statistical purposes.

I.T.A. No. 305/Chny/2025

10. This appeal is directed against confirmation of penalty levied under section 271(1)(c) of the Act. Since the quantum addition did not attain its finality, as we have remitted the matter to the file of the Assessing

Officer for fresh adjudication, the penalty levied under section 271(1)(c) of the Act and confirmed by the Id. CIT(A) stands deleted.

11. In the result the appeals of the assessee in ITA No. 304/Chny/2025 is allowed for statistical purposes and ITA No.305/Chny/2025 is allowed.

Order pronounced in the court on 17th April, 2025 at Chennai.

Sd/-
(जॉर्ज जॉर्ज के.)
(GEORGE GEORGE K)
उपाध्यक्ष /VICE PRESIDENT

Sd//
(एस.आर.रघुनाथा)
(S. R. RAGHUNATHA)
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 17th April, 2025
Vm/-

आदेशकी प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF