

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 No.: 256/Chny/2025
निर्धारणवर्ष / **Assessment Year: 2013-14**

R. Thanabalan,
2F/1575, P & T Colony,
Tuticorin 628 008.

Income Tax Officer,
Vs. Ward -5,
Tuticorin 628 001.

[PAN: AABPT-4814-F]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri P.M. Kathir, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri A. Sasi Kumar, CIT
सुनवाई की तारीख/ Date of hearing : 18.03.2025
घोषणा की तारीख /Date of Pronouncement : 17.04.2025

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 19.11.2024 and pertains to assessment year 2013-14 under section 250 of the Income Tax Act, 1961 ["Act" in short].

2. The only effective ground raised in the appeal of assessee for our consideration as to whether the Id. CIT(A) is justified in confirming the addition of ₹.25,81,264/- made by the Assessing Officer in the facts and circumstances of the case.

3. Brief facts of the case are that the assessee is an individual and filed his return of income for the assessment year 2013-14 on 30.03.2015 admitting total income of ₹.1,64,450/-. The return filed by the assessee was processed under section 143(1) of the Act on 02.06.2015. Subsequently, the case of the assessee was selected for scrutiny through CASS for the reason that the assessee has cash deposits in savings bank accounts more than the turnover. Notice under section 143(2) of the Act was issued and duly served on the assessee. Accordingly, the assessee furnished details of bank accounts and relevant details and on perusal of the same, the Assessing Officer noted that the assessee has total credits of ₹.37,20,894/- in his savings bank account during the financial year 2012-13 with Tamilnad Mercantile Bank Ltd., besides having total credit of ₹.17,30,728/- in his savings bank account in City Union Bank. Further, the assessee has saving bank joint account with his brother Shri R. Kannan Babu in which he has total credits of ₹.2,83,09,930/- totaling to ₹.3,37,61,552/- [17,30,728 + 37,20,894 + 2,83,09,930]. Before the Assessing Officer, the assessee has explained that these cash credits were made by him out of his business income. As per section 44AD of the Act, 8% of these total credits is treated as assessee's business income during the financial year 2012-13, which works out to ₹.27,00,924/-. However, the assessee, in his return for the AY 2013-14 admitted ₹.1,19,660/- as his business

income from contract business. Accordingly, the Assessing Officer treated the difference amount of ₹.25,81,264/- [27,00,924 – 1,19,660] as assessee's additional business income and added to the total income of the assessee. On appeal, after considering the written submissions of the assessee, the Id. CIT(A) confirmed the addition made by the Assessing Officer. On being aggrieved, the assessee is in appeal before the Tribunal.

4. The Id. AR Shri P.M. Kathir, Advocate submits that though the assessee filed details of bank statements, ledger account, etc. before the Id. CIT(A) as could be evident at page 4 of the impugned order, the Id. CIT(A) has not considered the same. By relying upon the decision of Mumbai Benches of the Tribunal in the case of Rajendra Gokuldas Parekh v. ITO in ITA Nos. 1869 & 1870/Mum/2023 vide order dated 23.11.2023, the Id. AR prayed to grant relief to the assessee.

5. On the other hand, the Id. DR Shri A. Sasi Kumar, CIT strongly supported the orders of authorities below.

6. We have heard both the parties and perused the materials available on record. On perusal of the assessment order, we note that the Assessing Officer found total cash credits at ₹.3,37,61,552/- and as per section 44AD of the Act, 8% of the total credits is to be treated as

assessee's business income during the FY 2012-13, which works out to ₹.27,00,924/-. We further note that in his return of income for AY 2013-14, the assessee has admitted ₹.1,19,660/- as his business income from contract business. Accordingly, the Assessing Officer treated the difference amount of ₹.25,81,264/- as undisclosed additional business income of the assessee and brought to tax, which was confirmed by the Id. CIT(A). In the impugned order, the Id. CIT(A) has observed that the assessee could not file the details and evidences regarding bank deposits during the course of appellate proceedings. However, as contended by the Id. Counsel for the assessee, on perusal of page 4 of the impugned order, we note that the Id. CIT(A) has reproduced the submissions of the assessee, wherein, the assessee has stated to have enclosed various bank accounts statements, ledger account copies, etc. Under the above facts and circumstances, we set aside the impugned order and remit the matter to the file of the Id. CIT(A) to examine the details filed by the assessee and decide the issue fresh in accordance with law by affording an opportunity of being heard to the assessee. The assessee is also directed to furnish complete details before the Id. CIT(A) for verification. Thus, the ground raised by the assessee is allowed for statistical purposes.

7. The alternative plea raised in the grounds of appeal by relying upon the decision of Mumbai Benches of the Tribunal in the case of Rajendra Gokuldas Parekh v. ITO (supra), we find that the case law relied on by the assessee is distinguishable and has no application to the facts of the present case.

8. In the result the appeal of the assessee is partly allowed for statistical purposes.

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/-

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF