

आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ "ए" मुंबई
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, MUMBAI
BEFORE S/SHRI B.R.BASKARAN, AM AND AMARJIT SINGH, JM

आयकर अपील सं./I.T.A. No.3817/Mum/2012
(निर्धारण वर्ष / Assessment Year:2002-03)

Smt.Kalpna Vijay Doshi, Gorai Link Road, Borivali-(W), Mumbai-400091	बनाम/ Vs.	Income Tax Officer, 15(3)(2), 1 st floor, Matru Mandir, Grant road, Mumbai.
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

स्थायी लेखा सं./जीआइआर सं./PAN. :AHVPD1314L

अपीलार्थी ओर से / Appellant by	Ms. Kshipra Sanghvi and Shri H M Sanghvi
प्रत्यर्थी की ओर से/Respondent by	Shri Manoj Kumar

सुनवाई की तारीख / Date of Hearing : 6.1.2016

घोषणा की तारीख /Date of Pronouncement :6.1.2016

आदेश / O R D E R

Per B R Baskaran, AM:

The assessee has filed this appeal challenging the order dated 07-3-2012 passed by Ld CIT(A)-26, Mumbai for assessment year 2002-03, wherein the first appellate authority has decided the following issues against the assessee:-

- (a) Validity of reopening of assessment
- (b) Addition of Rs.34,498/- relating to expenses
- (c) Addition of Rs.11,49,293/- made u/s 68 of the Act
- (d) Addition of Rs.7,45,603/- made u/s 69 of the Act.

2. The Ld A.R advanced her arguments on the validity of re-opening of assessment. The assessing officer has noted that the assessee has filed

her return of income for the year under consideration on 29-03-2004, i.e., within the period prescribed u/s 139(4) of the Act. However the Ld CIT(A) has observed that the return of income was filed on 31.7.2004, i.e., beyond the time limit prescribed u/s 139(4) of the Act and accordingly held that the return of income was not a valid return. Accordingly he held that the said invalid return does not have any implication on the reopening of assessment and hence the reopening was valid.

3. Thus, we notice that the Ld CIT(A) has rendered his decision in incorrect appreciation of facts, which vitiates his order. Accordingly, we are of the view that all the issues urged before us require re-adjudication at his end. Accordingly, we set aside his order and restore all the issues to his file for fresh examination.

4. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Pronounced accordingly on 6th Jan 2016.

घोषणा खुले न्यायालय में दिनांक: 6th Jan 2016 को की गई ।

Sd
(AMARJIT SINGH)
JUDICIAL MEMBER

sd
(B.R. BASKARAN)
ACCOUNTANT MEMBER

मुंबई Mumbai: 6th Jan 2016.

व.नि.स./ SRL , Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)- concerned
4. आयकर आयुक्त / CIT concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai concerned
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

True copy

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई /ITAT, Mumbai