

आयकर अपीलीय अधिकरण, ए' (SMC) न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL, A (SMC) BENCH : CHENNAI

श्री अब्राहम पी. जॉर्ज, लेखा सदस्य एवं  
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष।  
[BEFORE SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER  
AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER]

आयकर अपील सं./I.T.A. No.652/CHNY/2018  
निर्धारण वर्ष /Assessment year : 2009-2010.

Mohanan Nair,  
1272/4, Golden Colony,  
Anna Nagar West Extension,  
Chennai 600 050.

**Vs.** The Income Tax Officer,  
Non Corporate Ward 7(4)  
Chennai.

**[PAN AAMPM 8860G]**  
**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by : Ms. B. Jaisheila, C.A.  
प्रत्यर्थी की ओर से /Respondent by : Shri. B. Sagadevan, JCIT.

सुनवाई की तारीख/Date of Hearing : 06-08-2018  
घोषणा की तारीख /Date of Pronouncement : 07-08-2018

**आदेश / O R D E R**

**PER ABRAHAM P. GEORGE, ACCOUNTANT MEMBER**

In this appeal filed by the assessee, which is directed against an order dated 20.12.2017 of Id. Commissioner of Income Tax (Appeals)-7, Chennai, it is aggrieved that Id. Commissioner of Income Tax (Appeals) decided ex-parte.

2. Ld. Counsel for the assessee submitted that various additions made by the Id. AO were upheld by the Id. Commissioner of Income Tax (Appeals) without giving a fair chance to the assessee to present his case. According to the Id. Authorised Representative, additions of ₹1,75,000/-, 4,06,938 and ₹4,32,170/- were all explainable and Section 68 of the Income Tax Act, 1961 (in short 'the Act') could not have been invoked.

3. Ld. Departmental Representative submitted that despite giving number of opportunities, assessee did not enter appearance.

4. We have considered the rival contentions and perused the orders of the authorities below. Para 5 to 7 of the Id. Commissioner of Income Tax (Appeals) order is reproduced hereunder:-

*'5. The records indicate that the dates of hearing were fixed on various dates as below:-*

<i>Sl.No</i>	<i>Date of Hearing</i>	<i>Status</i>
<i>1</i>	<i>06.05.2016</i>	<i>Adjournment sought</i>
<i>2</i>	<i>30.06.2016</i>	<i>Adjournment sought</i>
<i>3</i>	<i>20.07.2016</i>	<i>Adjournment sought</i>
<i>4</i>	<i>08.12.2017</i>	<i>Acknowledgement placed on record none appeared.</i>

*6. Till the date of passing this order i.e. 20.12.2017, there is neither a request for adjournment nor has anyone*

*appeared on appellant's behalf, nor is there a written submission, by the appellant in support of his case.*

*7. In the absence of any material to contradict the findings of the Id. Assessing Officer, I find no reason to interfere with the Assessing Officer's order".*

Assessee had assailed the additions made for unexplained cash credits of ₹1,75,000/-, ₹4,06,938/- and unexplained investment of ₹4,32,170/-, before Id. Commissioner of Income Tax (Appeals). We find that Id. Commissioner of Income Tax (Appeals) did give the assessee four chance to enter appearance. However in three instances atleast, adjournment letters were filed. Now submission of Id. Authorised Representative is that assessee could not enter appearance due to reasons beyond his control and should be given one more opportunity to explain his case. Id. Authorised Representative has also given an undertaking before the Bench that if one more opportunity is given, assessee would certainly enter appearance before Id.CIT(A). In the circumstances of the case, we are of the opinion that assessee could be given one more opportunity to substantiate its grounds by Id. Commissioner of Income Tax (Appeals). We set aside the order of the Id. Commissioner of Income Tax (Appeals) and remit the case back to his file for consideration afresh in accordance with law.

5. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced on Tuesday, the 7<sup>th</sup> day of August, 2018, at Chennai.

**Sd/-**

**(धुव्वुरु आर.एल रेड्डी)**

**(DUVVURU RL REDDY)**

**न्यायिक सदस्य/JUDICIAL MEMBER**

**Sd/-**

**(अब्राहम पी. जॉर्ज)**

**(ABRAHAM P. GEORGE)**

**लेखा सदस्य /ACCOUNTANT MEMBER**

चेन्नई/Chennai

दिनांक/Dated:7th August, 2018.

**KV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

- |                          |                              |                         |
|--------------------------|------------------------------|-------------------------|
| 1. अपीलार्थी/Appellant   | 3. आयकर आयुक्त (अपील)/CIT(A) | 5. विभागीय प्रतिनिधि/DR |
| 2. प्रत्यर्थी/Respondent | 4. आयकर आयुक्त/CIT           | 6. गार्ड फाईल/GF        |