

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: 248/CHNY/2020
निर्धारण वर्ष / Assessment Year: 2006-07

M/s. PSN Educational and Charitable Trust,
P.S. Nadar & Sons Building,
No.12, Court Road,
Nagercoil,
Tamilnadu – 629 001.

The Income Tax Officer,
v. Ward - I(1),
Nagercoil

PAN : AAATP4096R

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri K. Ravi, Advocate
: Shri Suresh Periasamy, JCIT

सुनवाई की तारीख/Date of Hearing

: 30.12.2020

घोषणा की तारीख/Date of Pronouncement

: 30.12.2020

आदेश /O R D E R

PER MAHAVIR SINGH, VP:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals)-2, Madurai, in ITA No.0127/2015-16 dated 18.12.2019. The Assessment was framed by ITO, Ward I(1), Nagercoil U/s 143(3) r.w.s.147 of the

Income Tax Act, 1961 (hereinafter 'the Act') for the A.Y. 2006-07 vide order dated 20.01.2014.

2. The assessee carried the matter in appeal before CIT(A), who dismissed the appeal ex-parte and the matter went to Tribunal in ITA No.385/Mds/2015 vide order dated 27.03.2015, wherein, the order of CIT(A) was set aside and the matter was remanded back to his file. Consequently the appeal was referred back to CIT(A), who in this appeal i.e., the impugned order again dismissed the appeal ex-parte but by not adjudicating the issues at all, he dismissed the appeal for default i.e., non-appearance of assessee or its authorized representative. Aggrieved the assessee filed this appeal before Tribunal. Before Tribunal, the assessee has preferred many grounds.

3. At the outset, it is noticed that the order of CIT(A) is dismissing the appeal of assessee for default i.e., for non-appearance by assessee or its authorized representative. The Id.counsel as well as Id.senior Departmental Representative fairly conceded that this is an ex-parte order and appeal dismissed for default on the part of the assessee. There is no discussion on merits in this order. Can CIT(A) dismiss the appeal for default on the part of the assessee and not adjudicate any of the issue

on merits? We are of the view that unless the statute authorizes quasi judicial authority to dismiss the appeal for default expressly or by inevitable implication, the appellate authority has to decide the appeal on merits and not to dismiss it for default. The appellate authority has no jurisdiction to dismiss the appeal for default and he is bound to decide the appeal on merits even in the absence of the assessee. Hence, we set aside the order of the CIT(A) and restore the matter back to his file for deciding the issues on merits, in case the assessee does not appear. Needless to say that CIT(A) will allow reasonable opportunity of being heard to the assessee.

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

Order pronounced in the court on 30th December, 2020 at Chennai.

Sd/-

(जी. मंजुनाथ)

(G. MANJUNATHA)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 30th December, 2020

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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