

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI**

श्री वी दुर्गा रत्न, न्यायिक सदस्य एवं श्री जी मंजूनथ, लेखा सदस्य के समक्ष
**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.3492/Chny/2019
निर्धारण वर्ष /Assessment Year: 2016-17

Shri Chiraivelu Udaya Kumar,
No.260, Palgalai Nagar,
Palavakkam,
Chennai – 600 041.
[PAN: AARPU 2649E]
(अपीलार्थी/**Appellant**)

Vs. The Income Tax Officer,
Non Corporate Ward-15(5),
Chennai.

(प्रत्यर्थी/**Respondent**)

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

: Mr. M. Antony Jesurajan, Advocate
: Mrs. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 20.10.2021

घोषणा की तारीख /Date of Pronouncement

: 27.10.2021

आदेश / ORDER

Per V. Durga Rao, Judicial Member:

This appeal filed by the assessee is directed against the order of the Learned Commissioner of Income Tax (Appeals)-15, Chennai in I.T.A No.318/CIT(A)-15/2018-19 dated 31.10.2019 relevant to the Assessment Year 2016-17.

2. The brief facts of the case are that the assessee is an individual, filed his return of income declaring total income of Rs. 4,74,310/- and the same was processed u/s. 143(1) of the Income Tax Act, 1961 (hereinafter as "the Act"), after due process assessment was completed. In the assessment order, the A.O has noted that the assessee has deposited certain cash during the demonetization period. A Notice u/s. 142(1) of the Act dated 09.10.2018 along with questionnaire was issued. However, there were no compliance from the assessee for the above notice therefore, the A.O has added the entire income in his bank account at Rs. 74,48,350/-, income returned at Rs. 4,74,310/- and assessed total income of Rs. 79,22,660/- and assessment was completed u/s 144 of the Act by order dated 21.12.2018.

3. The assessee filed an appeal before the Id. CIT(A). However, the assessee has not filed any details and not given any proper explanation before the Ld. CIT(A) therefore, the Ld. CIT(A) confirmed the order of the A.O.

4. Before us, the Id. Counsel for the assessee has submitted that the assessee is doing milk business, whatever amounts comes to his account the same has to withdraw and deposit to the milk company and

all the details are available with him, one more opportunity may be given to the assessee to substantiate his case before the A.O.

5. On the other hand the learned Departmental Representative has not raised any serious objection to the submissions of the learned counsel for the assessee.

6. We have heard both the sides, perused the materials available on record and gone through the orders of the authorities below.

7. The A.O has passed order u/s. 144 of the Act and assessment was completed based on the cash deposits available in the bank account. On appeal, the Ld. CIT(A) confirmed the order of the A.O. The case of the assessee before us is that he is having a milk distribution agency and collects the cash from customer on behalf of the company and deposits the same in bank account and subsequently withdraws the same and make payment to the milk company. Therefore, the amount deposited in the bank account is not belonging to the assessee he only will get commission from the company. The assessee has not filed any details before the A.O even before the Ld. CIT(A). Therefore, in the interest of justice and also on the ground that the principles of the natural justice by taking into consideration of the status of the assessee being a small time business individual, we are of

the opinion that one more opportunity should be given to the assessee to substantiate his case before the A.O. Accordingly, we set aside the order passed by the Ld. CIT(A) and remit the matter back to the file of the A.O to pass fresh assessment order *denovo* in accordance with law, after giving reasonable opportunity to the assessee. We also direct the assessee to file all the necessary details before the A.O to substantiate his case. In view of the above, the appeal filed by the assessee is allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 27th October, 2021 in Chennai.

Sd/-
(श्री जी मंजूनाथा)

(G. MANJUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(वी दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai, दिनांक/Dated: 27th October, 2021.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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