

आयकर अपीलिय अधिकरण, 'सी' (एस एम सी) न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'C' (SMC) BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT**

आयकर अपील सं./**ITA No.: 2377/CHNY/2019**

निर्धारण वर्ष /Assessment Year: 2011-12

**Shri R. Mohan Kumar,**  
No.19/6, Vivekananda Nagar,  
Woraiyur, Trichy – 620 003.

**The ITO,**  
v. Non-Corporate Ward-7(1)  
Chennai - 34.

**PAN : AHVPM 5632L**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Arjun Raj for  
Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Ms. R. Anitha, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 03.11.2021

घोषणा की तारीख/Date of Pronouncement

: 03.11.2021

**आदेश /O R D E R**

1. This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-7, Chennai, in ITA No.72/CIT(A)-7/2018-19, order dated 25.06.2019. The Assessment was framed by Income Tax Officer, Non-Corporate Ward - 7(1), Chennai for the assessment year 2011-12 vide order dated 17.12.2018, U/s 144 r.w.s. 147 of the Income Tax Act, 1961 (hereinafter 'the Act').

2. At the outset, the Id.counsel for the assessee took me through the re-assessment order and read out the re-assessment order and stated that the re-assessment order is ex-parte framed u/s.144 r.w.s. 147 of the Act and there is no discussion about the additions made apart from that the cash is deposited in the savings bank account of the assessee that is maintained with TamilNadu Mercantile Bank Ltd., amounting to Rs.20,15,000/-. He further took me through the order of the CIT(A) and stated that despite detailed submissions filed before CIT(A), the CIT(A) has simply brushed aside the submissions and dismissed the issue on merits as well as on legality on service of notice issued u/s.148 of the Act. He read out the decision of CIT(A) which is given in Para 6, which reads as under:-

“6 Decision:

a) The A.O.’s order and appellant’s submission are carefully considered. The fact that there is cash deposit to the tune of Rs.20,15,000/- is not denied.

As far as the explanation that the same was deposited by appellant’s estranged wife is concerned, the same is difficult to accept, since there is no corroborative evidence in support of the same.

This ground is liable to be dismissed.

b) As regards the issue of legality of service of notice u/s.147 of the Act, appellant claims that the same was done by affixture at the wrong address. It is claimed that the same is bad in law. However, it was the duty of the appellant to update the records with the I.T. Dept. and since this was apparently not done, the dept cannot be faulted for affixture at “wrong address”.

In the result, appeal stands dismissed.”

3. In view of the above, the Id.counsel requested that the matter can be restored back to the file of the AO, so that a fresh assessment can be made and assessee can raise the issues before the AO afresh. When these facts were confronted to Id. senior Department Representative, she could not controvert the above stated facts that the assessment order is ex-parte and even the order of CIT(A) is a non-speaking order.

4. After hearing both the sides, I’m of the view that the principles of natural justice have been completely violated by the AO and moreover, the CIT(A) order is a non-speaking order. Hence, I set aside the orders of the lower authorities and remand the matter back to the file of the AO for fresh adjudication *de-novo*.

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

Order pronounced in the open court on 3<sup>rd</sup> November, 2021 at Chennai.

Sd/-  
(महावीर सिंह )  
**(Mahavir Singh)**  
उपाध्यक्ष /Vice President

चेन्नई/Chennai,  
दिनांक/Dated, the 3<sup>rd</sup> November, 2021

**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.            |