

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

श्री महावीर सिंह, माननीय उपाध्यक्ष, एवं
श्री मनोज कुमार अग्रवाल, माननीय लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, HON'BLE ACCOUNTANT MEMBER

आयकर अपीलसं./**ITA No.1619/Chny/2019**
निर्धारणवर्ष/**Assessment Year: 2013-14**

M/s.Amudha Thirumana –
Mandapam Pvt. Ltd.,
No.10, Appar Street,
Besant Nagar, Kalakshetra Colony,
Chennai-600 090.
[PAN:AABCL 1797 M]
(अपीलार्थी/Appellant)

v. The Dy. Commissioner-
of Income Tax,
Corporate Circle-1(1),
Chennai.
(प्रत्यर्थी/Respondent)

अपीलार्थीकी ओरसे/ Appellant by : None
प्रत्यर्थीकी ओरसे /Respondent by : Mr.G.Johnson, Addl.CIT
सुनवाईकी तारीख/Date of Hearing : 22.03.2022
घोषणाकी तारीख/Dt. of Pronouncement : 22.03.2022

आदेश / ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals)-4, Chennai, in ITA No.460/16-17/CIT(A)-4/AY: 2013-14 dated 25.03.2019. The assessment was framed by the Dy. Commissioner of Income Tax, Corporate Circle-1(1), Chennai, for the AY 2013-14 vide his order dated 31.03.2016, u/s.143(3) of the Income Tax Act, 1961 (hereinafter "the Act").

2. At the outset, it is noticed that the appellate order of the Ld.CIT(A) is exparte and sought to be decided for default on the part of the assessee

as not to represent. The Ld.CIT(A) has not spoken a word about merits of the case. He has simply dismissed exparte. When these facts confronted to the Id.Sr.DR, he could not controvert to the above facet situation. We have gone through the provisions of Sec.250 and noted that the Income Tax Act authorizes the Ld.CIT(A) to dismiss the appeal for default expressly or by inevitable implication, but the Ld.CIT(A) has to decide the appeal on merits and not to dismiss it for default. Accordingly, we are of the view that the Ld.CIT(A) has no jurisdiction to dismiss the appeal for default and is bound to decide the appeal on merits even in the absence of the assessee. But in the present case, the Ld.CIT(A) has not decided the appeal on merits. It is also an admitted fact that the appeal before the Ld.CIT(A) is statutory appeal and it is the right of the assessee to file the appeal and the Ld.CIT(A) is duty bound to decide the appeal on merits. As the Ld.CIT(A) has not done his duty as per the Act, we set aside the order of the Ld.CIT(A) and remit the matter back to the file of the Ld.CIT(A) for fresh adjudication. Needless to say that the Ld.CIT(A) has to adhere the principles of natural justice.

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

Order pronounced on the 22nd day of March, 2022, in Chennai.

Sd/-
(मनोज कुमार अग्रवाल)
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,
दिनांक/Dated: 22nd March, 2022.
TLN

आदेशकीप्रतिलिपिअग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF