

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH, CHENNAI
श्री वी.दुर्गा राव, न्यायिक सदस्य एवं श्री जी.मंजुनाथ, लेखा सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER
AND SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

आयकरअपीलसं./I.T.A.No.484/Chny/2020

(निर्धारणवर्ष / Assessment Year: 2014-15)

Mr. S.Palanivelu Prop: Ashok Transport 28-LIC Colony, Shanthi Nagar, Malligai Street, Madurai-625 018.	Vs	The Assistant Commissioner of Income Tax, Non-Corporate Circle-3, Madurai.
PAN: AHKPP 2698E		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. C.Maruthappan, FCA
प्रत्यर्थीकीओरसे/Respondent by	:	Ms. Helen Ruby Jesindha, JCIT

सुनवाईकीतारीख/Date of hearing	:	11.04.2022
घोषणाकीतारीख /Date of Pronouncement	:	11.04.2022

आदेश / ORDER

PER G. MANJUNATHA, AM:

This appeal filed by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-1, Madurai dated 31.01.2020 and pertains to assessment year 2014-15.

2. Brief facts of the case are that the assessee is a transport contractor of Tamilnadu Civil Supplies Corporation & Central Warehousing Ltd. filed his return of income for the assessment year 2014-15 on 27.11.2014 admitting income of Rs.17,41,220/-. The case has been selected for scrutiny and

notice u/s.143(2) dated 28.09.2015 was issued to the assessee. In response, the assessee has produced books of account and other details. The Assessing Officer has completed the assessment u/s.144 of the Act dated 30.12.2016 rejecting the books of account as incorrect and made addition by estimating 6% of total contract receipts from Ashok Transport amounting to Rs.61,29,110/- and further additions towards salary & interest on capital from partnership firm at Rs.6,09,238/- and income from other sources amounting to Rs.4,78,080/- and thus, determined total income of Rs.69,67,750/-. Aggrieved by the assessment order, the assessee preferred an appeal before the first appellate authority. Before the learned CIT(A), though seven opportunity of hearing was provided, the assessee neither appeared nor produced any documentary evidence to substantiate his claim. Therefore, the learned CIT(A) has passed ex-parte order sustaining additions made by the Assessing Officer. Aggrieved by the learned CIT(A) order, the assessee is in appeal before us.

3. We have heard both the parties, perused material available on record and gone through orders of the authorities

below. Admittedly, during the appellate proceedings before the learned CIT(A), the assessee neither appeared nor furnished any details to justify his claim and to controvert findings recorded by the Assessing Officer and thus, appeal has been disposed off on technical grounds. But, fact remains that on perusal of appellate order, the learned CIT(A) dismissed appeal filed by the assessee for non-prosecution without discussing the issue on merits. No doubt, the appellate authority has left with no option, but to dispose off appeal, when the appellant has not appeared despite notice of hearing was provided, but such appeal should be disposed off on merits on the basis of materials available on record. In this case, appeal of the assessee was disposed off on technical grounds for non-prosecution without considering issue on merits. In our consider view, the learned CIT(A) erred in not dealing with issues on merits. Therefore, we are of the considered view that the issue needs to go back to the file of learned CIT(A) to give one more opportunity of hearing to the assessee to file necessary evidences and explain his case. Hence, we set aside order of the learned CIT(A) and restore appeal to the file of learned

CIT(A) and direct the CIT(A) to reconsider the issue, after providing reasonable opportunity of hearing to the assessee. Needless to say, the assessee shall appear before the learned CIT(A) and furnish necessary details without seeking any adjournment, unless otherwise warranted.

4. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 11th April, 2022

Sd/-
(वी. दुर्गा राव)
(V.Durga Rao)
न्यायिक सदस्य /Judicial Member

Sd/-
(जी. मंजुनाथ)
(G.Manjunatha)
लेखा सदस्य / Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 11th April,2022

DS

आदेश की प्रतिलिपि अद्येषित/Copy to:

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