

**आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'C' BENCH, CHENNAI**

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

आयकरअपीलसं./ITA No.415 /Chny/2020  
(निर्धारणवर्ष / Assessment Year: 2011-12)

<b>M/s. Balaji Investments</b> No.87, Audiappa Naicken Street, Sowcarpet, Chennai – 600 079.	<b>बनाम/ Vs.</b>	<b>ACIT</b> Non Corporate Circle-4(1), Chennai.
स्थायीलेखासं./जी आइ आरसं./PAN/GIR No. AADFB-2997-A		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Shri Anandd Babunath (FCA)-Ld. AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Shri P. Sajit Kumar (JCIT) – Ld. Sr. DR

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	11-04-2022
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	18-04-2022

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2011-12 arises out of the order of learned Commissioner of Income Tax (Appeals)-5, Chennai [CIT(A)] dated 20.11.2019 in the matter of assessment framed by the Ld. Assessing Officer [AO] u/s. 144 r.w.s. 147 of the Act on 19.12.2018. The grounds raised by the assessee read as under:

- a. For that the order of the Commissioner of Income-tax (Appeals) ["CIT-A] was passed without considering the facts and circumstances of the case of the Appellant.
- b. The Ld AO and CIT (A) failed to appreciate that the appellant was just made the contributions of the partners into the bank account towards deposits and did not engaged into any business for the previous year covered under this appeal.
- c. That the CIT (A) erred in confirming the order of the Ld AO, who failed to verify the bank statement which was mostly in the nature of sweep fixed Deposits and the interest earned thereon was being meagre donot suffice to pay the interest on capital contribution.
- d. The Ld AO erred in holding the entire Credits as unexplained credits ignoring the maturity proceeds of sweep deposits and further deposits made out of the balances available which donot partake the character of income.
- e. The Ld AO & CIT (A) both the authorities did not verify from the Bank about the nature of deposits prior to the passing of the order under section 144 wherein the proper scrutiny of the evidences would have explained the information for assessment and is against the principles of natural justice.

2. The Registry has noted the delay of 10 days in the appeal, the condonation of which has been sought by the assessee on the strength of condonation petition which is accompanied by the affidavit of the Karta of HUF which represent assessee firm. In the affidavit, it has been submitted that there was a change in the Authorized Representative which led to the delay in filing of the appeal. Though the Ld. Sr. DR has opposed the condonation of delay, however, keeping in view the period of delay and in the interest of natural justice, we condone the delay and admit the appeal for adjudication on merits. The Ld. Sr. DR submitted that the assessment was framed on best judgment basis u/s 144 and even during appellate proceedings, none appeared for assessee. The Ld. AR pleaded for another opportunity of hearing. Having considered rival submissions, our adjudication would be as under.

3. The assessee firm was assessed u/s 143(3) r.w.s. 147 on 19.12.2018 wherein the assessee was saddled with addition of Rs.63.28 Lacs u/s 68, being time deposits made by the assessee with a bank. Though the assessee preferred further appeal, however, none appeared during appellate proceedings. Consequently, in the absence of any new

information or evidence, the assessment was confirmed. Aggrieved, the assessee is in further appeal before us.

4. Though we concur with the submissions of Ld. Sr. DR that the assessee has remained negligent to attend the proceedings before lower authorities, however, keeping in view the principle of natural justice, we restore the matter of assessment back to the file of Ld. CIT(A) for re-adjudication denovo after affording adequate opportunity of hearing to the assessee. The assessee is directed to substantiate its case failing which Ld. CIT(A) shall be at liberty to proceed with the adjudication on the basis of material on record.

5. The appeal stands allowed for statistical purposes.

Order pronounced on 18<sup>th</sup> April, 2022.

**Sd/-**  
**(MAHAVIR SINGH)**  
**उपाध्यक्ष /VICE PRESIDENT**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
**लेखासदस्य /ACCOUNTANT MEMBER**

चेन्नई/ Chennai; दिनांक/ Dated : 18-04-2022  
**EDN**

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

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