

आयकरअपीलीयअधिकरण, 'डी'न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH, CHENNAI**

श्री जी मंजूनाथा, लेखा सदस्य के समक्ष, श्री अनिकेश बनर्जी, न्यायिक सदस्य एवं
**BEFORE SHRI G. MANJUNATHA, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A No.:383/Chny/2021
निर्धारण वर्ष/Assessment Year: 2017 - 2018

Shri Sathya Narayanan,
No.63/57, IInd Floor,
VCHS School, Kamala Nagar,
Periyar Nagar Extension,
Thiruvottiyur,
Chennai – 600 019.

The Income Tax Officer,
Non-Corporate Ward – 17(4),
Vs. BSNL Tower,
No.16, Greams Road,
Chennai - 600 006.

PAN : ADLPN 0938Q

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/Appellant by
प्रत्यर्थीकीओरसे/Respondent by

: Shri H. Yeshwanth Kumar, C.A
: Dr. S. Palani Kumar, CIT

सुनवाई की तारीख/Date of Hearing : 07.06.2022
घोषणा की तारीख/Date of Pronouncement : 15.06.2022

आदेश /ORDER

PER ANIKESH BANERJEE, JM:

The instant appeal was filed by the Assessee against the order of the learned Commissioner of Income Tax (Appeals) in National Faceless Appeal Centre [NFAC], (in brevity "the CIT(A)") bearing order No.ITBA/NFAC/S/250/2021-22/1035853103(1), order passed u/s.250(6) of the Income Tax Act, 1961, (in brevity "the Act"), dated 24.09.2021 for the

Assessment Year 2017-2018. The impugned order was generated against the assessment order passed by the learned Income Tax Officer, Non-Corporate Ward – 17(4), Chennai (in brevity “the AO”) u/s.143(3) of the Act, dated 29.12.2019.

2. The brief fact of the case is that the Assessee had deposited cash, amounting to Rs.53,64,900/- in his Bank account at City Union Bank & Axis Bank. Accordingly, the Assessee had received some Jewellery loan and top-up loan, total amounting to Rs.8,41,000/-. The said amount was deducted from the deposits and the addition was sustained amounting to Rs.45,23,900/-. Aggrieved, the Assessee filed an appeal before the learned CIT(A). The CIT(A) upheld the order of the learned Assessing Officer. Aggrieved, the Assessee filed an appeal for further judicious consideration before the Tribunal.

3. The learned Counsel during the hearing first pointed out that, during the appeal proceedings before the learned CIT(A), a notice dated 21.09.2021 was issued with a direction to the Assessee to furnish a written submission within 23.09.2021. The learned Authorized Representative of the Assessee filed an adjournment petition on 23.09.2021 and prayed for

adjournment of hearing till 08.10.2021. However, the submission was made Online and the adjournment petition was submitted successfully bearing transaction ID.FOS000255042280, dated 23.09.2021. Without considering the same, the learned CIT(A) passed the order on 24.09.2021.

4. The learned Departmental Representative only relied upon the order of both the Revenue authorities and argued accordingly.

5. We heard the rival submissions and considered the documents available on records. The appeal hearing was fixed on 23.09.2021. A notice was issued on 21.09.2021 with a direction to the Assessee to submit a written submission which is quite impossible for the Assessee to submit the same. So the learned Appellate Authority had violated the provisions of giving a reasonable opportunity to the Assessee. Further, though the adjournment petition was submitted, without considering the same, the order was passed and even in the appellate order, the adjournment petition was not considered nor even not rejected by the learned CIT(A). We find no merits in the order of the learned CIT(A) relating to the denial of giving a reasonable opportunity to the Assessee to submit the

documents before the Appellate Authority. Hence, we set aside the order of the learned CIT(A) for further adjudication on merits. The Assessee should get a reasonable opportunity for defending his matter before the authority.

6. In the result, the appeal of the Assessee in I.T.A No.:383/Chny/2021 is allowed for statistical purposes.

Order pronounced in the court on 15th June,2022at Chennai.

Sd/-

(जीमंजूनाथा)

(G. MANJUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(अनिकेश बनर्जी)

(ANIKESH BANERJEE)

न्यायिकसदस्यएवं /JUDICIAL MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 15th June, 2022

IA, Sr. PS

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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