

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI**

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

आयकर अपील सं./ITA No.:633/CHNY/2020
निर्धारण वर्ष/Assessment Year: 2010 - 2011

**Lemminkainen Construction
(India) Pvt. Ltd.,**
G2, Ground Floor,
Sharanam Apartments, Plot 3,
4th Cross Street, Govindasamy,
10/11, Dr. Radhakrishna Salai,
Chennai – 600 091.

The ACIT,
Vs. Corporate Circle 4(1),
Chennai – 34.

PAN : AABCL 2126J

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: None

प्रत्यर्थी की ओर से/Respondent by

: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 04.07.2022

घोषणा की तारीख/Date of Pronouncement

: 04.07.2022

आदेश /O R D E R

PER MAHAVIR SINGH, VP:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals)-8, Chennai in I.T.A. No.109/CIT(A)-8/2018-19 dated 25.02.2020. The assessment was framed by the Asst. Commissioner of Income Tax, Corporate Circle 4(1), Chennai for the Assessment Year 2010-11 u/s.143(3) r.w.s. 147

of the Income Tax Act, 1961, (hereinafter 'the Act') vide order dated 28.12.2018.

2. Despite service of notice on many occasions, none was present from assessee's side and even the notices could not be served on the given address and all these RPAD notices came with the remark "No such company at address". Even, with us no new address is available. Hence, we are constrained to decide the appeal ex-parte qua, assessee.

3. At the outset, it is noticed that the grounds raised by assessee i.e., Ground Nos.2 & 3 are that the CIT(A) has passed ex-parte order and the same is not a speaking order. The relevant Ground Nos.2 & 3 reads as under:-

2. That the order of Ld. CIT(A) confirming additions of INR 2,36,66,664 made by Ld. AO to returned income of the Appellant by relying solely on the Ld. AO's order and without considering the facts and circumstances of the case is bad in law as it is not a speaking order and is therefore against principles of natural justice.

3. That the order of Ld. CIT(A) is impugned and bad in law as adequate opportunity of being heard was not provided to the Appellant. The mandatory notice fixing the date and place of hearing under the provisions of section 250(1) of the Act was not duly served on the Appellant at either the email address specified in Form No. 35 [i.e. santeri.kaariainen@yit.fi] or at the email address provided by the Appellant on the income tax e-filing portal [i.e. klaus.tervila@yit.fi]. Therefore, the order of Ld.CIT(A) is against principles of natural justice.

4. We have gone through the order of CIT(A) and the issue is regarding provision for warranty debited by assessee amounting to Rs.2,36,66,664/-. We noted that CIT(A) has not at all adjudicated the issue, how the provision for warranty is created and the terms and condition of warranty. The CIT(A) just passed a non-speaking order as grounds raised by assessee. When confronted, the Id. Senior DR also, could not controvert the above fact situation. As the order of CIT(A) is non-speaking and also ex-parte, as the CIT(A) passed the order without serving notice on the assessee, we set aside the order of CIT(A) and remand the matter back to her file for fresh adjudication after providing reasonable opportunity of being heard to the assessee.

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

Order pronounced in the open court on 4th July, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 4th July, 2022

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. |