

आयकर अपीलीय अधिकरण, 'सी' / SMC न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' /SMC BENCH, CHENNAI
श्री महावीर सिंह, उपाध्यक्ष के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE-PRESIDENT

आयकरअपीलसं./I.T.A.No.96/Chny/2023

(निर्धारणवर्ष / Assessment Year: 2017-18)

Mrs. Jayaraman Sudha, 18,Vishwanathapuram Mayiladuthurai, Nagapattinam-609 001.	Vs	The Income Tax Officer, Ward-2, Kumbakonam.
PAN: EWNPS 6088F		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. N.Arjunraj, C.A for Mr.S.Sridhar, Advocate
प्रत्यर्थीकीओरसे/Respondent by	:	Mr. AR.V.Sreenivasan, Addl.CIT

सुनवाईकीतारीख/Date of hearing	:	27.02.2023
घोषणाकीतारीख /Date of Pronouncement	:	27.02.2023

आदेश / ORDER

This appeal filed by the assessee is arising out of order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi vide appeal No. ITBA/NFAC/S/250/2022-23 / 1046958867(1) dated 04.11.2022. The assessment was framed by the Income Tax Officer, Ward-2, Kumbakonam for the assessment year 2017-18 u/s.144 of the Income Tax Act, 1961 (hereinafter "the Act") vide order dated 28.12.2019.

2. At the outset, the learned counsel for the assessee stated that assessment is ex-parte in regard to addition of cash deposits, being unexplained cash deposits u/s.69 of the Act amounting to Rs.12,63,040/- and as regards to another

addition made by the Assessing Officer of entire cash credits and estimating the same at 8% gross profit on the cash credit of Rs.87,32,343/- i.e. (Rs.99,95,383 – Rs.12,63,040). The learned counsel for the assessee stated that even the order of the Assessing Officer is ex-parte. The learned counsel for the assessee took us through relevant ex-parte part of assessment order para 7, one which reads as under:-

“7.1 A pre-assessment notice with the above particulars issued to assessee on 14.12.2019 and requested to file her objection, if any, on the above proposal along with supporting details/and the reply to be furnished this office on or before 19.12.2019. The assessee did not file any objection within the stipulated time. Hence, the assessment is completed u/s.144 r.w.s. 142(1) of the Income Tax Act, 1961.”

Further, the learned counsel took us through ex-parte order of the CIT(A), particularly, para 4.3, which reads as under:-

“ 4.3 Therefore, in view of the above discussed facts, it is clear that the case of the appellant has been fixed for various dates but no reply has been given by the appellant and the appellant is a habitual non-compliant without any concern/ respect for the law of the land. Even the assessment was completed under Section 144 of Income Tax Act, 1961 due to non-compliance. Therefore, it is presumed that the appellant is not interested in pursuing his appeal. Therefore, the undersigned sees no reason to interfere with the orders of the Ld. Assessing Officer. Thus, the action of the AO is confirmed and the grounds of appeal raised by the appellant are dismissed.”

The learned counsel for the assessee stated reasons that the assessee being business correspondent of Central Bank of

India serving as rural mobile commerce service corporate business correspondent performing activity of financial inclusion activity under branchless banking scheme for Central Bank of India and also catering needs of old age pensioners in rural areas, hence, she could not reply to notices issued by the CIT(A) on four occasions. The relevant dates mentioned by the CIT(A) in his order reads as under:-

	<i>Hearing Notice</i>	<i>Remarks</i>
<i>i)</i>	<i>Notice dated 15.01.2021</i>	<i>No compliance</i>
<i>ii)</i>	<i>Notice dated 04.08.2022</i>	<i>No compliance</i>
<i>iii)</i>	<i>Notice dated 28.09.2022</i>	<i>No compliance</i>
<i>iv)</i>	<i>A final opportunity of being heard through notice dated 11.10.2022 fixed for 21.10.2022</i>	<i>No compliance</i>

3. The learned counsel for the assessee in view of substantial justice requested that matter may be remitted back to the file of the Assessing Officer so that the assessee can explain cash deposits as well as credits. The learned counsel explained before us that these cash deposits and credits are arising out of assessee's nature of business as the assessee deposited cash in the OD account operated by her as being business correspondent of Central Bank of India serving as rural mobile commerce service corporate business correspondent performing activity of financial inclusion activity

under branchless banking scheme for Central Bank of India for Maraiyur village, Nagapattinam, catering needs of old age pensioners in said rural area. The transaction done through bio-metric HHD machine, which are not cash transactions were reported as cash deposited in the bank statement furnished by the bank and this has resulted in mis-information, as if the assessee has made cash deposits. Therefore, the learned counsel stated that the alleged transactions are not cash transactions, but are transactions of OAP pensions distributed through HHD machines.

4. Going by reasons stated by the assessee, learned Senior DR could not controvert that it may be true that explanation submitted by the assessee now before us is correct.

5. Heard rival contentions and gone through facts and circumstances of the case. In the interest of justice, to grant one more opportunity to the assessee, I set aside orders of the CIT(A) and that of the Assessing Officer and remand the matter back to the file of the Assessing Officer for fresh adjudication. Needless to say the assessee will co-operate with

the Department and will appear before the Assessing Officer as and when called for. Hence, orders of the lower authorities are set aside and matter is remanded back to the file of the Assessing Officer.

6. The appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 27th February, 2023

Sd/-
(महावीर सिंह)
(Mahavir Singh)
उपाध्यक्ष/ Vice-President

चेन्नई/Chennai,
दिनांक/Dated 27.02.2023
DS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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