

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No.870/Chny/2022
निर्धारण वर्ष/Assessment Year: 2017-18

Shri Ganesan Jaganathan,
Prop: Thirumala Agency,
1/61, Kadaikarrar Thottam,
Anaippalayam, Post Rasipuram,
Namakkal 637 401.

Vs. The Income Tax Officer,
Ward 3,
Namakkal.

[PAN:AFUPJ1893B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri K.B. Muralidharan, C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT
सुनवाई की तारीख/ Date of hearing : 28.02.2023
घोषणा की तारीख /Date of Pronouncement : 29.03.2023

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 31.08.2022 relevant to the assessment year 2017-18.

2. Brief facts of the case are that during the demonetization period, the assessee has made cash deposits of ₹.12,40,020/- with Indian

Overseas Bank maintained by him. Notice under section 142(1) of the Income Tax Act, 1961 ["Act" in short] was issued on 08.03.2018 and served on the assessee on 09.03.2018 calling for return of income. The assessee did not file his return of income for the assessment year 2017-18. A show-cause letter dated 17.05.2019 was issued and served on the assessee on 19.05.2019. A reminder show-cause letter dated 26.07.2019 was issued and served on the assessee on 31.07.2019. Further, the Assessing Officer issued letter dated 20.08.2019 calling for details, which was served on the assessee on 28.08.2019. Since there was no response to any of the above notices/letters, the Assessing Officer proposed assessment letter dated 14.09.2019 and duly served on the assessee on 17.09.2019. However, there was no response from the assessee.

3. Further, on verification of e-filing portal, the Assessing Officer noticed that the assessee has filed his return of income on 20.09.2019 admitting ₹.3,25,730/- as total income for the assessment year 2017-18. As the assessee filed his return of income for the assessment year 2017-18 on 20.09.2019, which was not a valid return, the Assessing Officer treated the same as "non-est return". Since the assessee did not file any material evidence to explain the source for cash deposits

made during the financial year 2016-17 except filing the return of income belatedly, the Assessing Officer proceeded to complete best judgement assessment under section 144 of the Act by considering the materials available. Since the assessee failed to furnish evidence for the source of cash deposits to the extent of ₹.3,21,000/-, the Assessing Officer treated the entire cash deposits as unexplained money and assessed under section 69 of the Act. Further, on perusal of the assessee's bank account, the Assessing Officer noted that the assessee has made total cash deposits to the tune of ₹.59,68,240/-. From the bank statement for the year 2016-17, the Assessing Officer ascertained that the assessee was running a milk booth. In the absence of books of accounts, the total credits of ₹.59,68,240/- excluding demonetization specified bank notes deposits was treated as assessee's business turnover and the profit of business income was estimated at the rate of 10% of the business turnover which arrived at ₹.4,77,840/- was brought to tax under the head "business income". On appeal, the Id. CIT(A) dismissed the appeal of the assessee for want of prosecution.

4. On being aggrieved, the assessee is in appeal before the Tribunal. Before us, the Id. Counsel for the assessee prayed for one

more opportunity of being heard to the assessee to furnish the details before the authorities below.

5. On the other hand, the Id. DR strongly supported the orders of authorities below.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. Since the assessee has filed belated return of income without any material evidence, the Assessing Officer has completed the assessment under section 144 of the Act. On appeal, despite various opportunities afforded, neither the assessee put his appearance before the Id. CIT(A) or furnished any details/evidence. Under the above facts and circumstances and in order to meet the ends of natural justice, we are of the considered opinion that the assessee shall be given one more opportunity to furnish the details with supporting evidence before the Assessing Officer. Accordingly, we set aside the order of the Id. CIT(A) and remit the matter back to the file of the Assessing Officer to decide the issues afresh after considering the submissions as may be filed by the assessee by affording one more opportunity of being heard to the assessee. The assessee is also directed to furnish complete details

with material evidence before the Assessing Officer for consideration.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on 29th March, 2023 at Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 29.03.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR &
6. गार्ड फाईल/GF.