

**आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH, CHENNAI**  
**श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष**  
**BEFORE SHRI MAHAVIR SINGH, VICE-PRESIDENT**  
**AND SHRI G.MANJUNATHA, ACCOUNTANT MEMBER**

**आयकरअपीलसं./I.T.A.No.67/Chny/2023**

(निर्धारणवर्ष / Assessment Year: 2017-18)

Mr. V.Manikandan 29/3, Viswanathapuram Main Road, Kodambakkam, Chennai-600 024.	Vs	The Income Tax Officer, Ward-3, Tuticorin.
PAN: AWEPM 2312D		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Ms. B.Revathy, Advocate
प्रत्यर्थीकीओरसे/Respondent by	:	Mr. P.Sajit Kumar, JCIT

सुनवाईकीतारीख/Date of hearing	:	29.03.2023
घोषणाकीतारीख /Date of Pronouncement	:	29.03.2023

**आदेश / ORDER**

**PER MAHAVIR SINGH, VP:**

This appeal by the assessee is arising out of order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi vide appeal No. ITBA/NFAC/S/250/2022-23 / 1047507957(1) dated 18.11.2022. The assessment was completed by the Income Tax Officer, Ward-3, Tuticorin for relevant assessment year 2017-18 u/s. 153A r.w.s 143(3) of the Income Tax Act, 1961 (hereinafter "the Act") vide order dated 21.12.2018.

2. At the outset, learned counsel for the assessee drew our attention to ground no.3 which reads as under:-

*“The CIT(A) erred in confirming the Order of the AO, u/s 154 of the act without providing proper and effective opportunity of being heard to the appellant, which is mandatory requirement for passing an order u/s 154(3), which therefore, violated the principles of natural justice and the provisions of the Act.*

3. The learned counsel for the assessee stated that the CIT(A) has dismissed appeal solely on the ground of non-appearance and without adjudicating the issue on merits. The learned counsel for the assessee took us through order of the CIT(A) and she drew our attention to final findings of the CIT(A), which reads as under:-

“Hence in view of the above and on the basis of detailed findings and reasons given by the A.O in his assessment order, I uphold the addition made by the Assessing Officer. The appeal on this ground is accordingly dismissed.”

4. She argued that the CIT(A) is simplicitor, confirmed the order without speaking even a word on merits of the assessee’s case, despite fact that entire facts were narrated in statement of facts filed before the CIT(A). But, when it was pointed out to

learned counsel for the assessee that the CIT(A) has allowed five opportunities, which is noted in the order of the CIT(A), the assessee should have availed the opportunity, which he failed miserably. When these facts were confronted to Ld. Senior DR, he stated that there is default on the part of the assessee in not attending hearings, despite many notices were served on him.

5. After hearing both the sides on the issue of natural justice and non-speaking order or order passed for non-appearance, we noted that although, the CIT(A) has provided five opportunities, which were not availed by the assessee, but the CIT(A) is duty bound to pass speaking order on merits. Hence, we set aside order of the CIT(A) and remand the matter back to the file of the CIT(A) for passing a speaking order on the issue, after providing reasonable opportunity of hearing to the assessee. The assessee will also pay cost of Rs.5,000/- to the Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras.

6. In view of the above, and subject to the above condition that the assessee will pay cost of Rs.5,000/-, the matter is

remitted back to the file of the CIT(A). Needless to say that the assessee will provide all the details at the first instance before the CIT(A), who will decide the issue afresh in accordance with law. The appeal of the assessee is allowed for statistical purposes on the above terms.

7. In term of above, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 29<sup>th</sup> March, 2023

Sd/-  
( जी. मंजुनाथ )  
( G.Manjunatha )  
लेखा सदस्य / Accountant Member  
चेन्नई/Chennai,  
दिनांक/Date: 29.03.2023  
DS

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

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.