

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI**

श्री वी. दुर्गा राव, न्यायिक सदस्य, एवं
श्री अरुण खोडपिया, लेखा सदस्य के समक्ष

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.478/Chny/2023
निर्धारण वर्ष /Assessment Year: 2020-21

M/s.The Kumbakonam Central –
Cooperative Bank Ltd.,
150, TSR Big Street,
Kumbakonam,
Thanjavur-612 001.
[PAN: AAAAT 0148 B]
(अपीलार्थी/Appellant)

v. The Asst. Commissioner of
Income Tax,
Circle-2(1),
Trichy.
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr.K.Ravi, Adv.
प्रत्यर्थी की ओर से /Respondent by : Mr.P.Sajit Kumar, JCIT
सुनवाई की तारीख/Date of Hearing : 22.06.2023
घोषणा की तारीख /Date of Pronouncement : 23.06.2023

आदेश / ORDER

PER ARUN KHODPIA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), Income Tax Department, National Faceless Appeal Centre (NFAC), Delhi, dated 16.02.2023, and pertains to assessment year 2020-21.

2. The assessee has raised the following grounds of appeal:

- 1. The CIT (appeals) erred in dismissing the appeal on one single ground "Not responded to Notice Issued on two occasion"*
- 2. The CIT (Appeals) erred in passing the order without looking into facts and submission made by the Appellant through grounds of appeal*
- 3. The CIT (Appeals) has not touched or addressed or considered the points rained in the Grounds of Appeal.*

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4. *CIT Appeals has dismissed the appeal without looking into merits, as submitted in the grounds and also list of responses submitted by the appellant.*

5. *Even Assuming that the appellant has not responded, The CIT appeals ought to have considered the submissions made in the grounds of appeals, before dismissing the appeal on unreasonable ground.*

6. *CIT (Appeals) also erred in concluding the order by stating "addition" by Assessing Office is confirmed, (last page and last Para -Attached).*

In fact the appeal is against levy of penalty U/s.272A (1) (d)

7. *The Appellant submits that they have responded to all notices (as per list attached) issued by the Assessing Officer in respect of penalty Notices issued U/s.272A(1)(d).*

8. *The appellant submits that they have submitted response on 17-02-2023, seeking time to respond to the notice.*

On these grounds and on such other grounds that may be put-forth at the time of hearing, it is prayed that the submission of Appellant be considered and Justice rendered.

3. The assessee has also submitted the following statement of facts:

1. *The Assessing Officer levied penalty U/s 272A (1) (d) for not responding to Notice issued.*

2. *The appellant filed an appeal before CIT (Appeals)*

3. *The CIT (Appeals) dismissed the Appeal without giving further opportunity to the Appellant.*

4. The assessee is a Cooperative Bank filed its return for AY 2020-21 on 03.12.2020 declaring total income of Rs.9,54,13,800/-. The return of the assessee was selected for scrutiny under CASS and assessment was completed by Faceless Assessing Officer (in short "FAO"). On account of assessee's failure to comply with notices issued by the FAO in absence of satisfactory explanation/evidences by the assessee in failure to comply with notice issued u/s.142(1) of the Income Tax Act, 1961 (in short "the Act"). The assessee was considered as clearly exigible for levy of penalty u/s.272A(1)(d) of the Act, finally a penalty of Rs.10,000/- was levied on the assessee u/s.272A(1)(d)of the Act, by passing an order in this aspect on 20.06.2022.

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5. Against the impugned penalty order passed by the FAO, the assessee filed an appeal before the Ld.CIT(A), wherein, the Ld.CIT(A) has dismissed the appeal of the assessee on the basis of non-prosecution on the part of the assessee.

While initiating the arguments, the Ld.AR of the assessee, at the outset, has requested that since, the assessee could not appear before the Ld.CIT(A) and the order was passed *ex parte*, one more opportunity may be granted to the assessee to substantiate its case before the Ld.CIT(A).

6. Ld.DR, on the other hand, relied upon the orders of the Ld. FAO & Ld. CIT(A). It is the submission of the Ld. DR that despite adequate opportunities were granted to the assessee by both the Revenue authorities, the assessee has failed to comply with such opportunities, therefore, granting of any further opportunity may tantamount to encouraging the non-compliant assesseees. Therefore, the order of the Ld.CIT(A) should be considered as a reasoned order and deserves to be upheld.

7. We have considered rival submissions and perused the orders of the authorities below. It is the submission of the Ld.AR that adequate opportunities were not granted by the Ld.CIT(A). Hence, one more opportunity may be given to the assessee to substantiate material evidence under the plea that noncompliance was on account of reasons beyond its control for non-compliance before the Revenue authorities. It was also the

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submission of the Ld AR that the assessee is duty bound to comply all the compliances under law and assured that, if an opportunity is granted no such further noncompliance would be occurred in future.

8. In view of the above facts and in the interest of natural justice, we are of the considered opinion that, since, the matter decided *ex parte* by the Ld.CIT(A) without hearing the assessee, it would be proper to remit the same back to the file of the Ld.CIT(A), with a direction to grant one final opportunity to the assessee to furnish requisite details, evidences, and explanation in support of its contention and to decide the issue in accordance with available facts and prescribed law. The assessee is also directed to appear before the Ld.CIT(A) and to furnish all the requisite submissions in its defense without seeking any further adjournments. If the assessee continues with his non-compliant behavior, then, the Ld.CIT(A) shall be at liberty to pass an appropriate order as per law. The grounds raised in the present appeal by the assessee are, therefore, allowed for statistical purposes.

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

Order pronounced on the 23rd day of June, 2023, in Chennai.

Sd/-
(वी. दुर्गा राव)
(V. DURGA RAO)
न्यायिक सदस्य/**JUDICIAL MEMBER**

Sd/-
(अरुण खोडपिया)
(ARUN KHODPIA)
लेखा सदस्य/**ACCOUNTANT MEMBER**

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चेन्नई/Chennai,
दिनांक/Dated: 23rd June, 2023.
TLN

आदेश की प्रतिलिपि ँ ग्रेषित/**Copy to:**

1. ँ पीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आंकर आणुक्त (ं पील)/CIT(A)
4. आंकर आणुक्त/CIT
5. विभागीं प्रतिनिधि/DR
6. गार्ड फाईल/GF