

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

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER AND
SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: **571/Chny/2023**

निर्धारण वर्ष / Assessment Year: 2018-19

Omalur Primary Agricultural Co-op Credit Society Ltd.,
107, Omalur Thodaka Velanmai,
Omalur, Salem – 636 455.

The Income Tax Officer,
v. Ward -1(6),
Salem.

[PAN: AAAAO-1919-R]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. T. Vasudevan, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. AR V Sreenivasan, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 26.06.2023

घोषणा की तारीख/Date of Pronouncement

: 26.06.2023

आदेश /ORDER

PER MANJUNATHA. G, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order of the learned Principle Commissioner of Income Tax. Coimbatore-1, passed u/s. 263 of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), dated 09.03.2023 and pertains to assessment year 2018-19.

2. The brief facts of the case are that, the assessee has filed its return of income for the assessment year 2018-19 on 28.03.2019, admitting total income of Rs. Nill. The assessment has been completed u/s. 143(3) of the Act, on 12.02.2021 by accepting the returned income. The case has been subsequently taken up for revision proceedings and accordingly notice u/s. 263 of the Act, dated 01.03.2023 was issued and fixed the case for hearing on 08.03.2023. The assessee filed petition for adjournment of hearing on 03.03.2023 through e-portal, but the PCIT passed order u/s. 263 of the Act, on 09.03.2023 by ignoring adjournment petition filed by the assessee and set aside the assessment order passed by the Assessing Officer with the direction to the Assessing Officer to redo the assessment in accordance with directions given in the order passed u/s. 263 of the Act. Aggrieved by the PCIT order, the assessee is in appeal before us.

3. The Ld. Counsel for the assessee, referring to show cause notice dated 01.03.2023 and adjournment request filed by the assessee on 03.03.2023 submits that, the PCIT passed order u/s. 263 of the Act on 09.03.2023 by ignoring adjournment

petition filed by the assessee on 03.03.2023, without providing reasonable opportunity of hearing to the assessee. Therefore, one more opportunity of hearing may be given to the assessee to explain its case.

4. The Id. DR, on the other hand fairly agreed that the matter may be set aside to the file of the PCIT to give one more opportunity of hearing to the assessee.

5. We have heard both the parties and considered relevant material available on record. We find that although, the appellant had sought adjournment by filing the request on 03.03.2023 through e-portal, but the PCIT passed order u/s. 263 of the Act on 09.03.2023, by ignoring adjournment petition filed by the assessee. From the above, it is very clear that the PCIT has passed order without providing reasonable opportunity of being heard to the assessee, in violation of principle of natural justice. Therefore, we are of the considered view that the issue needs to go back to the file of the PCIT to provide reasonable opportunity of hearing to the assessee and thus, we set aside the order passed by the PCIT u/s. 263 of the Act and restore the issue to the file of the PCIT

to reconsider the issue in accordance with law, after providing reasonable opportunity of hearing to the assessee.

6. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 26th June, 2023 at Chennai.

Sd/-
(वी दुर्गा राव)
(V. DURGA RAO)
न्यायिकसदस्य/**Judicial Member**

Sd/-
(मंजुनाथ. जी)
(MANJUNATHA. G)
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated: 26th June, 2023

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF