

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
**Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member**

आयकर अपील सं./I.T.A. No. 764/Chny/2023
निर्धारण वर्ष/Assessment Year: 2014-15

K. Kavitha,
H-54, Periyar Nagar, 3rd Main Road,
Erode 638 001, Tamil Nadu.

Vs. The Income Tax Officer,
Ward -1(2),
Erode.

[PAN:AOPPK1042R]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate [Erode]
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT
सुनवाई की तारीख/ Date of hearing : 25.07.2023
घोषणा की तारीख /Date of Pronouncement : 28.07.2023

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 29.04.2023 for the assessment year 2014-15.

2. Brief facts of the case are that the assessee filed the return of income for the assessment year 2014-15 on 13.05.2015 admitting an income of ₹.2,28,770/- and the same was processed under section 143(1) of the Income Tax Act, 1961 ["Act" in short]. Subsequently, the case has

been selected for limited scrutiny reasoning that “cash deposits in the savings account were more than the turnover” and notice under section 143(2) of the Act was issued on 26.07.2016. After considering the submissions of the assessee, the Assessing Officer has completed the assessment under section 143(3) of the Act dated 15.11.2016 assessing total income of the assessee at ₹.11,23,622/- after making disallowance of income estimated at 8% under section 44AD of the Act for undisclosed turnover at ₹.8,94,857/-. On appeal, the Id. CIT(A) dismissed the appeal filed by the assessee since there was no response from the assessee by filing any written submissions despite various opportunities afforded to the assessee.

3. On being aggrieved against the appellate order, the assessee carried the matter in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the Id. CIT(A) has not adjudicated the issues raised by the assessee on merits by considering the provisions of the Act and prayed for suitable directions.

4. On the other hand, the Id. DR has submitted that the assessee was afforded sufficient opportunities and no more opportunity should be given to the assessee.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. Against the assessment under section 143(3) of the Act dated 15.11.2016, the assessee carried the matter in appeal before the Id. CIT(A). The Id. CIT(A) issued hearing notices for filing the written submissions. However, the assessee has not complied with the above notices. Therefore, the Id. CIT(A) dismissed the appeal filed by the assessee by following various case law. During the course of hearing, the Id. Counsel for the assessee has submitted that despite taking limited scrutiny in respect of “cash deposits in the savings account”, the Assessing Officer made an estimated addition on the turnover of the assessee altogether on a different footing, thereby violating the instructions of the CBDT issued from time to time. It was further submission that the Assessing Officer made estimated addition at 8% on the turnover of the assessee is not applicable in view of the provisions of section 44AD of the Act. It was further submission that due to unavoidable circumstances, the assessee could not respond to the notices issued by the Id. CIT(A) and prayed for affording one more opportunity of being heard to the assessee to substantiate her claim before the Id. CIT(A). Under the above facts and circumstances, we set aside the appellate order and remit the matter back to the file of the Id. CIT(A) with a direction to adjudicate the issue on

merits in accordance with law after considering the submissions of the assessee by affording one more opportunity of being heard to the assessee. The assessee is also directed to furnish suitable explanations with material evidence, if any, before the Id. CIT(A) for consideration.

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

Order pronounced on 28th July, 2023 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 28.07.2023

Vm/-

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