

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **822/Chny/2023**
निर्धारण वर्ष / Assessment Year: 2017-18

Ananthu Govindarayaluyier
Subburaman Gopi Babu,
36, Mahal Vadampokki Street,
Near Thirumalai Naicker Mahal,
Madurai – 625 001.

The Income Tax Officer,
v. Non-Corporate Ward -2(2),
Madurai.

[PAN: ADVPG-8125-E]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri. Sree Lakshmi Valli, Advocate
: Shri. P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 05.10.2023

घोषणा की तारीख/Date of Pronouncement

: 11.10.2023

आदेश /ORDER

PER MANJUNATHA. G, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 25.02.2023 and pertains to assessment year 2017-18.

2. The brief facts of the case are that, the appellant has filed his return of income for the assessment year 2017-18 on 27.10.2017, admitting a total income of Rs. 7,62,870/-. The

case was selected for scrutiny to verify the issue of abnormal increase in cash deposits during demonetization period. During the course of assessment proceedings, the Assessing Officer called upon the assessee to file necessary details of source for cash deposit, details of Sundry Creditors, Sundry Debtors and details of various expenses including mode of payment. In response, the assessee has submitted certain details including day book and ledger. On verification of the day book and ledger, the Assessing Officer noticed that the assessee has incurred certain expenses in cash in excess of Rs. 20,000/-, contrary to section 40A(3) of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), and thus, called upon the assessee to file necessary details vide letter dated 20.12.2019. In response, the assessee filed details of cash payments on 20.10.2022, along with ledger accounts of various expenses. But, the Assessing Officer without considering details filed by the assessee completed the assessment and determined total income of Rs. 23,74,965/-, by making various additions, including additions towards difference in sundry creditors confirmation and confirmation nor received and disallowance of expenses u/s. 40A(3) of the Act.

3. Being aggrieved by the assessment order, assessee preferred an appeal before the CIT(A). Before the Id. CIT(A), the assessee has filed various details and argued that the Assessing Officer has completed assessment without affording reasonable opportunity of being heard, which is evident from the fact that even though if the appellant has submitted details in response to notice issued by the Assessing Officer for proposing to make additions u/s. 40A(3) of the Act, but the Assessing Officer has not considered submissions made by the assessee and completed the assessment. The assessee had also filed details in respect of additions made by the Assessing Officer towards sundry creditors and cash payments. The Id. CIT(A), after considering relevant submissions of the assessee and also taken note of relevant facts, rejected arguments of the assessee and sustained additions made by the Assessing Officer, towards cash payment in excess of prescribed limit u/s. 40A(3) of the Act and also confirmed additions made towards difference in sundry creditors. Aggrieved by the CIT(A) order, the assessee is in appeal before us.

4. The Ld. Counsel for the assessee, submitted that the Id. Assessing Officer has completed the assessment without providing reasonable opportunity of hearing to the assessee in

violation of principle of natural justice and thus, the issue may be set aside to the file of the Assessing Officer to give one more opportunity of hearing to the assessee to explain its case.

5. The Id. SR. AR, Shri. P. Sajit Kumar, JCIT, on the other hand fairly agreed that the issue may be set aside to the file of the Assessing Officer.

6. We have heard both the parties and considered relevant material available on record. We find that the Assessing Officer has passed assessment order without affording reasonable opportunity of being heard to the appellant, which is evident from the fact that, the Assessing Officer has issued show cause notice proposing to make additions towards cash payments in excess of prescribed limit u/s. 40A(3) of the Act, vide their show cause notice dated 23.12.2019. Although, the appellant has filed its reply vide statement dated 23.12.2019, the Assessing Officer has passed assessment order on 24.12.2019, without considering details filed by the assessee. Therefore, from the above it is undoubtedly clear that the Assessing Officer has passed assessment order without affording reasonable opportunity of being heard to the appellant, in violation of principle of natural justice. The said lapse is even continued during appellate

proceedings. The appellant has brought out these facts before the CIT(A). But, the Id. CIT(A), rejected arguments of the assessee and dismissed appeal without discussing the arguments of the assessee, by violating principle of natural justice. Therefore, we are of the considered view that the issue needs to go back to the file of the Assessing Officer. Thus, we set aside the order of the Id. CIT(A) and restore the issues to the file of the Assessing Officer and direct the Assessing Officer to reconsider all the issues 'denovo' in accordance with law, after providing reasonable opportunity of being heard to the assessee. Needless to say, the appellant shall appear before the Assessing Officer and file all details to justify its case.

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

Order pronounced in the court on 11th October, 2023 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /Vice President

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

चेन्नई/Chennai,

दिनांक/Dated, the 11th October, 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