

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 722/CHNY/2023

निर्धारण वर्ष/Assessment Year: 2015-16

**The Kanyakumari District
Central Cooperative Bank Ltd.,**
15/8-21, Alexander Press Road,
Nagercoil,
Kanyakumari – 629 001.

The Income Tax Officer,
Vs. Circle 1,
Tirunelveli.

PAN: AACFT 6796L

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri V. Nandakumar, CIT

सुनवाई की तारीख/Date of Hearing

: 29.11.2023

घोषणा की तारीख/Date of Pronouncement

: 29.11.2023

आदेश /ORDER

PER MAHAVIR SINGH, VP:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in order No.ITBA/NFAC/S/250/2023-24/1052421507(1) dated 28.04.2023. The assessment was framed by the ACIT, Circle-1, Nagercoil for the assessment year 2015-16

u/s.143(3) of the Income Tax Act, 1961 (hereinafter 'the Act'), vide order dated 12.10.2017.

2. At the outset, the Id.counsel for the assessee stated that the CIT(A) has not adjudicated the grounds and dismissed only on the sole issue presuming that there is no order exists for adjudication. He drew our attention to para's 1 to 3 of the CIT(A) order, which read as under:-

“This appeal has been filed against order u/s 154 dated 14.08.2019 and appeal has been filed on 29/10/2019.

2. Subsequently, the PCIT has revised the Assessment order dated 12/10/2017 which was rectified u/s 154 on 14/08/2019 and consequent order has been passed on 25/08/2021 against which appeal has been filed on 29/09/2021.

3. Once the Assessment has been revised, the original order does not survive consequently the appeal filed against non existant order can't survive. Therefore the appeal is dismissed.”

Further, the Id.counsel for the assessee stated the facts that the assessment was completed by the AO u/s.143(3) of the Act vide order dated 12.10.2017, wherein addition was made by the AO on account of disallowance of other expenses to the tune of Rs.2,05,50,000/-. The assessee has not challenged this assessment order passed by the AO u/s.143(3) of the Act but moved rectification petition u/s.154 of the Act, dated 30.03.2019 pleading for deletion of

addition made by disallowing other expenses of Rs.2,05,50,000/- as being assessed twice in assessment year 2014-15 and 2015-16. The AO rejected the rectification application vide order dated 14.08.2019, wherein the issue was disallowance of other expenses of Rs.2,05,50,000/-. Once the application u/s.154 of the Act i.e., rectification application was rejected by AO, the assessee preferred appeal against the order passed by AO u/s.154 of the Act dated 14.08.2019. The CIT(A) under a confused state of mind and without going into the case records, dismissed the assessee's appeal as not-maintainable on the pretext that the PCIT has already passed revision order u/s.263 of the Act. The Id.counsel for the assessee stated that the rectification order rejecting rectification application dated 14.08.2019 was challenged before CIT(A) and the CIT(A) should have adjudicated the same. To this preposition, the Id.senior DR agreed.

3. After hearing both the sides and going through the facts of the case, we set aside the order of CIT(A) in the given facts and circumstances and direct the CIT(A) to adjudicate the appeal filed against rectification order passed by AO u/s.154 of the Act, wherein the issue of disallowance of other expenses of Rs.2,05,50,000/- is very much there. Hence, we set aside the order of CIT(A) and

remand the matter back to his file for adjudication of this issue as per law. Hence, this appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 29th November, 2023 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 29th November, 2023

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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