

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

श्री मंजुनाथ. जी, लेखा सदस्य एवं श्री मनोमोहन दास, न्यायिक सदस्य के समक्ष
BEFORE SHRI MANJUNATHA. G, ACCOUNTANT MEMBER AND
SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं./ITA No.1013/Chny/2022
निर्धारण वर्ष /Assessment Year: 2017-18

Sengoda Gounder Natarajan,
6/93A, Vasuvampalayam,
Kondarasampalayam PO,
Kand Paramathivelur Taluk,
Namakkal – 637 203.
[PAN: ADMPN-9251-H]
(अपीलार्थी/Appellant)

The Income Tax Officer,
Vs. Ward-2,
Namakkal.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri N. Arjun Raj, C.A
प्रत्यर्थी की ओर से /Respondent by : Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing : 09.11.2023
घोषणा की तारीख /Date of Pronouncement : 09.11.2023

आदेश / ORDER

PER MANOMOHAN DAS, J.M:

This appeal by the assessee is directed against the order of the learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 07-11-2022 pertaining to the Assessment Year [AY] 2017-18.

2. The brief facts of the case are that as per information available with the Department, the Id. Assessing Officer [AO] noticed that the assessee had deposited cash of Rs. 11,56,900/- into his bank

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accounts maintained with ICICI Bank, State Bank of India and Indian Bank during the demonetization period relevant to the assessment year 2017-18. To examine the genuineness of the sources for cash deposits made, the Id. AO issued notice u/s 142(1) of the Act on 09-03-2018 and served upon the assessee on 19-03-2018 through registered post. As per this notice under section 142(1) of the Act, the assessee was required to comply on or before 31-03-2018 by filing a valid return of income for the AY 2017-18. However, the assessee has not filed the return of income. Thereafter, despite various notices issued neither the assessee filed return of income nor furnished any material evidence. Finally, the Id. AO issued pre-assessment notice dated 21-09-2019 requiring the assessee to furnish the sources for cash deposits during demonetization period. However, the assessee has not filed his return of income and just filed a single sheet containing abstract of cash deposits and reported availing of loan by the assessee as source for cash deposits. Accordingly, with the available details, the Ld. AO proceeded and concluded best judgment assessment u/s 144 of the Act dated 17-10-2019 by assessing the total income of the assessee at Rs. 20,48,640/-. On appeal, the Id. CIT(A) dismissed the appeal of the assessee in the absence of details in support of ground of appeal filed. The Id. CIT(A) vide order dated 07-11-2022 observed that the appellant is not interested in pursuing

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his appeal and therefore, upheld the order passed by the Id. AO. Being aggrieved, the assessee preferred the present appeal before the Tribunal. When the appeal was taken up for hearing by the Tribunal, none appeared on behalf of the assessee or any adjournment petition filed. Therefore, the Hon'ble Co-ordinate Bench proceeded to decide the appeal on merits after hearing the Id. DR. The Hon'ble Co-ordinate Bench after consideration of the case vide order dated 24-01-2023 dismissed the appeal of the assessee and upheld the order of the Id. CIT(A) dated 07-11-2022.

3. Being aggrieved, the assessee filed Miscellaneous Application No. 68/Chny/2023 before the Tribunal praying for recalling of the ex-parte order of the Co-ordinate Bench dated 24-01-2023 and restoration of the appeal of the assessee. The Hon'ble Co-ordinate Bench vide order dated 3rd November, 2023 allowed the aforesaid MA No. 68/Chny/2023 and restored the appeal of the assessee. Thus, the appeal of the assessee is posted for adjudication.

4. Heard the representatives of both the parties. The Ld. AR sought remand of the matter to the Ld. AO before whom he will substantiate his case. The Ld. DR has no objection to the submission of the Ld. AR. We observe that both the orders of the lower authorities are ex-parte orders. The Id. AO concluded the assessment u/s. 144 of the Act as

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best judgment assessment and the Id. CIT(A) dismissed the appeal of the assessee by observing that the assessee is not interested in pursuing his appeal.

5. As both the orders of the lower authorities are ex-parte orders, we consider it appropriate to give one more opportunity to the assessee to substantiate his case before the Id. AO for the sake of justice. Accordingly, we set aside the order of the Id. CIT(A) dated 07-11-2022 as well as order of the Id. AO dated 17-10-2019 and remand the matter to the Id. AO to consider the cash afresh after giving the assessee a reasonable opportunity of being heard. At the same time, we direct the assessee to substantiate his case before the Id. AO.

6. In the result the appeal of the assessee is allowed for statistical purposes only.

Order pronounced in the open Court on 09th November, 2023.

Sd/-
(मंजुनाथ. जी)
(Manjunatha. G)

लेखा सदस्य /Accountant Member

Sd/-
(मनोमोहन दास)
(Manomohan Das)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 09th November, 2023.

EDN/-

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

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