

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई। <b>IN THE INCOME TAX APPELLATE TRIBUNAL</b> <b>'A' BENCH: CHENNAI</b>		
माननीय श्री जस्टिस (सेवानिवृत्त), चंद्रकांत वसंत भडंग, अध्यक्ष एवं श्री मंजूनाथा.जी, माननीय लेखा सदस्य के समक्ष <b>BEFORE HON'BLE MR. JUSTICE (RETD.) CHANDRAKANT VASANT</b> <b>BHADANG, PRESIDENT AND</b> <b>SHRI MANJUNATHA.G, HON'BLE ACCOUNTANT MEMBER</b>		
आयकर अपील सं./ITA No.1333/Chny/2023 निर्धारण वर्ष /Assessment Year: 2017-18		
Shri Rayakottai Kuppusaminaidu- Jagadeesan, 2/98, R.K.S.Tamarind Mundy, Palaiyur, Rayakottai Dhenkanikottai, Krishnagiri-635 116.  [PAN: AGDPJ 6188 R] <b>(अपीलकर्ता/Appellant)</b>	<b>v.</b>	The Income Tax Officer, Ward-1, Hosur.   <b>(प्रत्यर्थी/Respondent)</b>
अपीलकर्ता की ओर से/ Appellant by	:	Shri G. Baskar, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Shri P. Sajit Kumar, JCIT
सुनवाई की तारीख/Date of Hearing	:	23.01.2024
घोषणा की तारीख /Date of Pronouncement	:	23.01.2024

**आदेश / ORDER**

**PER MANJUNATHA.G, AM:**

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), Income Tax Department, National Faceless Appeal Centre (NFAC), Delhi, dated 25.09.2023, and pertains to assessment year 2017-18.

**2.** The brief facts of the case are that the assessee is an individual filed his return of income for AY 2017-18 on 29.09.2017 declaring total taxable

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income of Rs.6,00,910/-. The case was selected for scrutiny and during the course of assessment proceedings, the AO noticed that the assessee has made cash deposits of Rs.60,10,000/- in his bank account during demonetization period. It was further noticed that the entire cash deposits is made in Specified Bank Notes on various dates during the period from 09.11.2016 to 30.12.2016. The AO called upon the assessee to explain source for cash deposits. Since, the assessee could not substantiate source for cash deposits of Rs.24,10,000/- by filing necessary evidences, the AO made additions u/s.69A of the Income Tax Act, 1961 (in short "the Act") as unexplained money.

**3.** The assessee carried the matter in appeal before the First Appellate Authority, but neither appeared before the Ld.CIT(A) nor furnished any evidences to justify source for cash deposits. Therefore, the Ld.CIT(A) disposed off appeal filed by the assessee **ex parte** on the basis of materials available on record and upheld the additions made by the AO towards cash deposits u/s.69A r.w.s.115BBE of the Act. Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before us.

**4.** The Ld.Counsel for the assessee, Shri G. Baskar, Advocate, referring to the date of hearing provided by the Ld.CIT(A), more particularly, on the last date of hearing on 24.08.2023 submitted that the assessee has filed a letter dated 24.08.2023, in response, notice dated 09.08.2023, and furnished certain evidences including revised VAT returns. Further, the assessee has sought adjournment for seven days to file remaining

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evidences to justify source for cash deposits. Although, the assessee has sought adjournment for filing certain evidences, but the Ld.CIT(A) has disposed off appeal filed by the assessee without considering the request of the assessee. Therefore, appeal may be set aside to the file of the Ld.CIT(A) to give another opportunity of hearing to the assessee to justify his case.

**5.** The Ld.DR present for the Revenue supporting the order of the Ld.CIT(A) submitted that the assessee could not furnish necessary evidences within the time sought by his letter dated 24.08.2023. Therefore, the Ld.CIT(A) has rightly disposed off appeal filed by the assessee on the basis of materials available on record and their orders should be upheld.

**6.** We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. There is no dispute with regard to the fact that the assessee has not pursued his case before the First Appellate Authority with utmost care and diligent which is evident from the fact that although, the Ld.CIT(A) has given sufficient opportunities, but the assessee could not file complete details to justify source for cash deposits. At the same time, although, the Ld.CIT(A) has disposed off appeal filed by the assessee for non-prosecution, but failed to decide the issue on merits with reasoning which is evident from the order of the Ld.CIT(A), where the Ld.CIT(A) in one line upheld the additions made by the AO towards cash deposits u/s.69A of the Act. In our considered

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view, even in a case where the appeal is disposed off for non-prosecution or **ex parte** for non-appearance, the appeal should be disposed off on merits on the basis of materials available on record. In the present case, the Ld.CIT(A) disposed off appeal filed by the assessee on technical grounds without discussing the issues on merits. Therefore, we are of the considered view that the issues need to go back to the file of the Ld.CIT(A) for fresh adjudication on merits, and thus, we set aside order of the Ld.CIT(A) and restore the issues to the file of the Ld.CIT(A) with a direction to re-adjudicate the issues in accordance with law after providing reasonable opportunity of hearing to the assessee. Needless to say, the assessee shall appear before the Ld.CIT(A) and file necessary evidences without seeking any adjournment.

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

Order pronounced on the 23<sup>rd</sup> day of January, 2024, in Chennai.

**Sd/-**  
(चंद्रकांत वसंत भडंग)  
**(C.V. BHADANG)**  
अध्यक्ष / **PRESIDENT**

**Sd/-**  
(मंजूनाथा.जी)  
**(MANJUNATHA.G)**  
लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई/Chennai,  
दिनांक/Dated: 23<sup>rd</sup> January, 2024.  
**TLN**

आदेश की प्रतिलिपि □ ग्रेषित / **Copy to:**

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|----------------------------|---------------------------|--------------------|
| 1. □ पीलार्थी / Appellant  | 3. आकर आपुक्त / CIT       | 5. गार्ड फाईल / GF |
| 2. प्रत्यर्थी / Respondent | 4. विभागीय प्रतिनिधि / DR |                    |