

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

जस्टिस श्री चंद्रकांत वसंत भडंग, अध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष
BEFORE Mr.JUSTICE (RETD.) C.V. BHADANG, PRESIDENT
AND SHRI MANJUNATHA.G, ACCOUNTANT MEMBER

आयकर अपीलसं./ITA No.: 1250/CHNY/2023

निर्धारण वर्ष/Assessment Year: 2016-17

Smt. Karunanidhi Krishnaveni,
1/253, M.K.G. Foods & Feeds,
Nammakkal Main Road,
Elayampalayam Village,
Thiruchengodu – 637 205.

The Deputy Commissioner of
Income Tax,
Circle 1,
Chennai.

PAN: AEEPK 3732K

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी 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 / O R D E R

PER MANJUNATHA G, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), New Delhi dated 27.09.2023 and pertains to assessment year 2016-17.

2. The brief facts of the case are that the assessee is an individual, filed her return of income for the assessment year 2016-17 on 02.03.2018 declaring total income of Rs.82,85,330/-. The assessment has been completed u/s.143(3) of the Act on 27.12.2018 and determined total income at Rs.1,22,88,673/- by making addition of Rs.40,03,343/- u/s.68 of the Income Tax Act, 1961 (hereinafter the 'Act') towards cash deposit during demonetization period on the ground that the assessee could not explain the source for cash deposit into bank account. The assessee preferred an appeal before the CIT(A). Before the CIT(A), the assessee neither appeared nor filed any details to explain source for cash deposit. Therefore, the CIT(A) disposed off the appeal filed by the assessee ex-parte vide order dated 27.09.2023 and sustained addition made by the AO.

3. The Id.counsel for the assessee referring to the order of CIT(A), more particularly the dates of hearing and response of the assessee submitted that although the assessee has responded for three occasions but could not file any evidence when the appeal was posted on 25.09.2023 because the assessee failed to communicate the notice issued by the CIT(A) to the counsel for the assessee. The AR further submitted that although CIT(A) dismissed appeal on

technical grounds but did not adjudicate the issue on merits. Therefore, he submitted that the appeal may be set aside to the file of the CIT(A) to give one more opportunity of being heard to the assessee.

4. The Id.DR for the Revenue opposed the request of the Id.counsel for the assessee to set aside the appeal and submitted that the CIT(A) has upheld the reasons given by the AO to make addition towards cash deposits u/s.68 of the Act. Therefore, there is no reason to set aside the appeal to the file of the CIT(A).

5. We have heard both the parties, perused the materials on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that the appellant did not respond to notice issued by the CIT(A) despite number of opportunities was given by the first appellate authority. However, the CIT(A) disposed off the appeal filed by the assessee on technical ground without discussing the issues on merits. It is a well settled principle of law by the decision of various courts that even in case of non-prosecution by the assessee, the appeal should be disposed on merits on the basis of materials available on record. In the present case, the CIT(A) disposed off the appeal on technical grounds

without discussing the issues on merits. Therefore, we are of the considered view that one more opportunity of hearing may be provided to the assessee. Thus, we set aside the order of the CIT(A) and restore the issue back to the file of the CIT(A) to decide the issue on merits. Needless to say, the assessee shall appear before the CIT(A) without seeking any adjournment.

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

Order pronounced in the open court at the time of hearing on 23rd January, 2024 at Chennai.

Sd/-

(जस्टिस चंद्रकांत वसंत भडंग)
(JUSTICE C.V. BHADANG)
अध्यक्ष/PRESIDENT)

Sd/-

(मंजुनाथ. जी)
(MANJUNATHA.G)
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,
दिनांक/Dated, the 23rd January, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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