

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.: **961/CHNY/2023**

निर्धारण वर्ष/Assessment Year: 2017-18

Ms. Reena Srinivas,
E-2, Alsa Residency Gilchrist
Avenue, Harrington Road,
Chetpet,
Chennai – 600 031.

The Income Tax Officer,
Vs. Non-Corporate Ward 3(3),
Chennai.

PAN: BFDPS 4234M

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : None
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing : 29.01.2024
घोषणा की तारीख/Date of Pronouncement : 29.01.2024

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

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/250/2023-24/1054744534(1) dated 31.07.2023. The assessment was framed by the Income Tax Officer, Non Corporate Ward 3(3), Chennai for

the assessment year 2017-18 u/s.144 of the Income Tax Act, 1961 (hereinafter 'the Act'), vide order dated 31.08.2019.

2. At the outset, it is noticed that the assessment framed by the AO is ex-parte u/s.144 of the Act, making addition as under:- i) Cash deposit of Rs.52,40,523/- treated as business receipt and assessed at the rate of 8% of total non-cash credit and added a sum of Rs.4,19,242/-. ii) The second addition is, addition of Rs.43,67,000/- being demonetized cash deposits i.e., SBNS and treated the same as unexplained money u/s.69A of the Act. The AO framed assessment ex-parte u/s.144A of the Act after issuing show-cause notice by post and e-mail on 13.05.2019 & 18.06.2019. The final show-cause notice was issued on 27.08.2019. As there was no reply or no response, the AO assessed the income as above. Aggrieved, assessee preferred appeal before CIT(A).

3. The CIT(A) dismissed the appeal ex-parte by noting that the assessee was given opportunities on 06.01.2021, 07.11.2022, 19.03.2023, 12.07.2023 & 19.07.2023. As no response received, the CIT(A) decided the appeal ex-parte by observing in para 8.1 & 8.2 as under:-

“8.1 Per Contra: Nobody submitted any written submission in respect of the appeal proceedings despite of best efforts made by this office.

8.2 Held : I have perused assessment order and considered the facts of the case. It seems that appellant does not want to pursue the appeal as appellant has not submitted any reply and the appellant does not have any concern/respect for the law of the land as assessment proceeding was completed u/s.144 due to non-compliance. In the absence of any written submission and evidence, I am compelled to sustain the additions even on the count of merit. Therefore, based on that The Grounds of Appeal No.1 to 10 are dismissed.”

Aggrieved, now assessee filed this e-appeal.

4. When we have gone through the assessment order and the order of CIT(A), we noted that no doubt the assessment was fixed two or three times and appeal was fixed for five times. But it seems that neither the AO nor the CIT(A) has passed the order after making detailed enquiry. The findings of CIT(A) recorded is totally non-speaking and without any basis. He simpliciter dismissed the appeal of assessee for default, which is not permissible in law. Hence, we after hearing the Id.Senior DR and going through the orders of lower authorities, set aside the orders of lower authorities that is, of AO & CIT(A) and remand the matter back to the file of the AO with a direction to re-decide these two issues i.e., assessment of business income being cash deposit of Rs.52,40,523/- and unexplained money being demonetized cash in SBNs u/s.69A of the

Act, amounting to Rs.43,67,000/-. In term of the above, we remand the matter back to the file of the AO for re-deciding *denovo*.

5. The AO is directed to ensure that the assessee has not taken credit of this appeal fee paid of Rs.10,000/- under the head 'self-assessment tax'. In case, the assessee has taken double credit of this appeal fee, appropriate action may be initiated against the assessee as per law.

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 29th January, 2024 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 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. | |