

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथा. जी, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1537/Chny/2023**

निर्धारण वर्ष / Assessment Year: 2017-18

Manickam Jewellery,
No. 85/1, Big Chetty Street,
Chengalpattu – 603 001.

[PAN: AADFM-4953-D]

(अपीलार्थी/Appellant)

Income Tax Officer,
Ward -22(3),
Tambaram.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. S.P. Chidambaram, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri. D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing : 21.02.2024

घोषणा की तारीख/Date of Pronouncement : 21.02.2024

आदेश /ORDER

PER MANJUNATHA. G, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 26.10.2023 and pertains to assessment year 2017-18.

2. The brief facts of the case are that, the assessee is a partnership firm and engaged in the business of trading in jewellery. The assessee has filed its return of income for the

assessment year 2017-18 on 17.03.2018, admitting total income of Rs. 3,02,540/-. The case was selected for scrutiny under CASS to verify cash deposits during demonetization period. During the course of assessment proceedings, the Assessing Officer noticed that the assessee has made cash deposits of Rs. 35,38,500/- into Axis Bank account during demonetization period. Therefore, the Assessing Officer called upon the assessee to file necessary details. The assessee has not filed any details and also not furnished explanation for source for cash deposits into bank account during demonetization period. Therefore, the Assessing Officer made additions of Rs. 35,38,500/- u/s. 69 r.w.s. 115BBE of the Income-tax Act, 1961 (hereinafter referred to as "the Act"). The assessee carried the matter in appeal before the first appellate authority. Before the Id. CIT(A), the assessee neither furnished any details nor explained source for cash deposits, which is evident from Para 5.2 of Id. CIT(A) order, where the Id. CIT(A) has posted the appeal for hearing on three dates. But, in all three occasions the assessee has sought adjournment to file details. Therefore, the Id. CIT(A) dismissed appeal filed by the assessee for non-prosecution, in light of decision of ITAT Delhi Benches in the case of CIT vs

Multiplan India Pvt Ltd reported in 38 ITD 320 (Del). Aggrieved by the Id. CIT(A) order, the assessee is in appeal before us.

3. The Ld. Counsel for the assessee, submitted that the Id. CIT(A) has erred in dismissing appeal filed by the assessee without considering adjournment petition filed by the assessee, seeking time to file necessary details, in violation of principles of natural justice. Therefore, he submitted that the matter may be set aside to the file of the Id. CIT(A) to provide reasonable opportunity of hearing to the assessee.

4. The Id. DR, on the other hand supporting the order of the Id. CIT(A) submitted that when the appellant is not serious in prosecuting their appeal, the appellate authorities have left with no choice but to dispose off appeal filed by the assessee. In the present case, since the appellant is not responding to notice issued by Id. CIT(A), the appellate authorities has rightly dismissed appeal filed by the assessee and their order should be upheld.

5. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. The Id. CIT(A) disposed off appeal filed by the assessee ex parte, without considering adjournment letter filed by the assessee to comply with notices issued by the Id. CIT(A) to justify its case, contrary to settled principle of law. Further, when the appellant seeks adjournment with a valid reason, it is the duty of the appellate authority to provide adjournment to the appellant to submit necessary details. Further, although the Id. CIT(A) has dismissed appeal filed by the assessee, but such appeal has been dismissed for non-appearance without discussing the issues on merits. Since, the Id. CIT(A) has not provided sufficient opportunity to the assessee, in our considered view, the matter needs to go back to the file of the Id. CIT(A) to provide reasonable opportunity of hearing to the assessee. But, the assessee will get another opportunity before the first appellate authority, subject to payment of nominal cost of Rs. 5,000/- for failure to appear before the Id. CIT(A), when the appeal was called for hearing. Thus, we set aside the order of the Id. CIT(A) and restore the issue back to the file of the Id. CIT(A), subject to the condition that the assessee should pay Rs. 5,000/- cost to State Legal

Aid Authority, Hon'ble High Court of Madras and produce proof of payment of cost to the Registry within 15 days from the date of receipt of this order.

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

Order pronounced in the open court on 21st February, 2024 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /Vice President

Sd/-
(मंजूनाथा. जी)
(MANJUNATHA. G)
लेखासदस्य /Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 21st February, 2024

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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