

आयकर अपीलिय 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.: **1577/Chny/2023**

निर्धारण वर्ष / Assessment Year: 2017-18

Chinnaasamy Arasu,
No. 44-A, II Cross, Krishna
Nagar, Ammapet,
Salem – 636 003.

[PAN: AFOPA-2978-N]

(अपीलार्थी/Appellant)

v. The Deputy Commissioner of
Income Tax,
Circle -1(1),
Salem.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. Sree Valli Laskhmi, 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 / O R D E R

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 22.11.2023 and pertains to assessment year 2017-18.

2. The brief facts of the case are that, the assessee is an individual and has filed return of income for the assessment year 2017-18 on 31.03.2018, admitting total income of Rs.

19,41,911/-. The case was selected for scrutiny to verify cash deposits during demonetization period. During the course of assessment proceedings, the Assessing Officer noticed that total transactions including cash and other credits in the bank account of appellant maintained with Indian Bank was at Rs. 6,80,32,368/-. The Assessing Officer, further noticed that out of total transactions, cash deposits during demonetization period was at Rs. 34,12,000/-. The assessee was called upon to explain the details of transactions in bank account and also source for cash deposits during demonetization period. Since, the appellant has not filed any details, the Assessing Officer has made additions of Rs. 34,12,000/- u/. 69 r.w.s. 115BBA of the Income-tax Act, 1961 (hereinafter referred to as "the Act") and also estimated 8% profit on remaining cash deposits and made addition of Rs. 35,00,679/-. The assessee carried the matter in appeal before the Id. CIT(A), but neither appeared nor filed any details, which is evident from Para 5.1 of Id. CIT(A) order, where the first appellate authority has posted the case for hearing on four dates, But no response from the assessee. Therefore, the Id. CIT(A) dismissed appeal filed by the assessee ex parte for non-prosecution and upheld additions made by the Assessing Officer towards cash deposits during

demonetization period and also estimation of profit on total credit in bank account. 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) dismissed appeal filed by the assessee without providing reasonable opportunity of hearing, in violation of principle of natural justice and thus, in the interest of natural justice, one more opportunity of hearing may be given to the assessee to explain its case before the Id. CIT(A).

4. The Id. DR, on the other hand supporting the order of the Id. CIT(A) submitted that, although the Id. CIT(A) has given sufficient opportunities to the assessee to justify its case, but the assessee neither appeared nor filed any details. Further, the appellant could not explain as to why he could not appear before the Id. CIT(A). Therefore, he submitted that if at all the assessee needs one more opportunity, subject to payment of cost the matter may be set aside to the file of the Id. CIT(A).

5. We have heard both the parties, perused materials available on record and gone through orders of the authorities

below. Admittedly, the assessee is non-cooperative at all stages of proceedings, which is evident from exparte assessment order passed by the Assessing Officer and exparte appellate order passed by the Id. CIT(A). Further, the appellant could not explain proper reasons for non-appearance before the Assessing Officer and Id. CIT(A). From the above, it is undoubtedly clear that, assessee is very casual in his approach before the authorities and said approach cannot be appreciated. Further, although the Id. CIT(A) has disposed off appeal filed by the assessee, but such appeal has been dismissed on technical grounds, without considering the issue on merits. It is a well settled principle of law by the decisions of various courts that, even in a case of appeal being disposed off for non-prosecution of the appellant, the said appeal should be disposed off on merits, on the basis of material available on record. Since, the Id. CIT(A) has dismissed appeal filed by the assessee without considering the issue on merits, in our considered view the assessee deserves one more opportunity of hearing before the CIT(A). But, the assessee should get another opportunity subject to payment of nominal cost for non-serious in prosecuting its case before the authorities. Thus, we set aside the order passed by the Id. CIT(A) and

restore the issue back to the file of the CIT(A) to give one more opportunity of hearing to the assessee to substantiate its case with necessary evidences. The assessee is directed to pay nominal cost of Rs. 5,000/- to State Legal Aid Authority, Hon'ble High Court of Madras and produce necessary proof of payment to the Registry within 15 days from the date 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