

आयकर अपीलिय अधिकरण, 'बी (SMC)' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'B(SMC)' BENCH, CHENNAI**

श्री मंजुनाथा. जी, लेखा सदस्य के समक्ष

**BEFORE SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1509/Chny/2023**

निर्धारण वर्ष / Assessment Year: 2017-18

Mrs. Gopi Amsa,  
5/47, Saibaba Street  
Shevapet,  
Salem – 636 002.

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

**[PAN: AJNPA-2072-L]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. T. S. Lakshmi Venkataraman, FCA

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

सुनवाई की तारीख/Date of Hearing : 28.02.2024

घोषणा की तारीख/Date of Pronouncement : 28.02.2024

**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 24.05.2022 and pertains to assessment year 2017-18.

2. At the outset, we find that there is a delay of 148 days in appeal filed by the assessee, for which petition for condonation

of delay along with reasons for delay has been filed. After considering the petition filed by the assessee and also hearing both the parties, we find that there is a reasonable cause for the assessee in not filing appeal on or before the due date prescribed under the law and thus, in the interests of justice, we condone delay in filing of appeal and admit appeal filed by the assessee for adjudication.

3. The brief facts of the case are that, the assessee has filed return of income for the assessment year 2017-18 on 31.03.2015, admitting total income of Rs. Nil. The case was selected for scrutiny under CASS and during the course of assessment proceedings, the Assessing Officer noticed that the assessee has made cash deposits in specified bank notes during demonetization period to Corporation Bank and Dena Bank amounting to Rs. 42,30,000/-. The Assessing Officer, called upon the assessee to furnish necessary evidences and also explain source for cash deposits. The assessee filed his reply on 08.11.2019, but not furnished any details and also not explained source for cash deposits. Therefore, the Assessing Officer made additions of Rs. 42,30,000/- u/s. 69 of the Income-tax Act, 1961 (hereinafter referred to as "the Act")

as unexplained money. The assessee carried the matter in appeal before the first appellate authority, but neither appeared nor filed any details, even though the case was posted for hearing on many occasions. Therefore, the Id. CIT(A) disposed off appeal filed by the assessee ex parte and upheld additions made towards cash deposits. Aggrieved by the Id. CIT(A) order, the assessee is in appeal before us.

4. The Ld. Counsel for the assessee, Shri. T.S. Lakshmi Venkataraman, FCA, submitted that the assessee did not get sufficient opportunity of hearing before the Assessing Officer and the Id. CIT(A). Further, notice issued by the Id. CIT(A) was not served on the assessee. Therefore, in the interests of justice, the issue may be set aside to the file of the Assessing Officer to give reasonable opportunity of hearing to the assessee.

5. The Id. DR. Shri. D. Hema Bhupal, JCIT, on the other hand supporting the order of the Id. CIT(A) submitted that, the assessee is non-cooperative at all stages of proceedings. The assessee could not explain reasons for non-appearance. Therefore, the issue may be set aside to the file of the

Assessing Officer to give one more opportunity of hearing to the assessee, after imposing cost for non-appearance.

6. 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 Assessing Officer. 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 Assessing Officer 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. 10,000/- 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.

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

Order pronounced in the court on 28<sup>th</sup> February, 2024 at Chennai.

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

चेन्नई/Chennai,

दिनांक/Dated, the 28<sup>th</sup> February, 2024

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्धी/Respondent
3. आयकर आयुक्त/CIT
- 4.. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF