

आयकर अपीलीय अधिकरण “बी” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VP AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं. ITA No.1424/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2015-16)

Shri Bright Singh Chelladurai No.5 Nanthanial Street, Nagercoil-629 001.	बनम / Vs.	ITO Ward-1, Tirunelveli.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No.	ATVPB-0028-K	
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकी ओरसे/ Appellant by	:	Shri R. Sivaraman (Advocate)-Ld. AR
प्रत्यर्थीकी ओरसे/ Respondent by	:	Shri D. Hema Bhupal (JCIT)- Ld. DR

सुनवाईकी तारीख/ Date of final Hearing	:	07-03-2024
घोषणाकी तारीख / Date of Pronouncement	:	07-03-2024

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2015-16 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 23-10-2023 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 147 r.w.s 144 of the Act on 22-03-2022.
2. At the time of hearing, the Ld. AR sought adjournment which was rejected by the Bench considering the fact that assessment has been made on best judgment basis and the assessee failed to substantiate its case even before Ld. CIT(A) despite being provided with various

opportunity of hearing. Accordingly, the assessment was confirmed. The Ld. AR, alternatively, pleaded for another opportunity of hearing to enable the assessee to substantiate its case. The same has been opposed by the Ld. Sr. DR who submitted that the assessee remained negligent in attending the proceedings before lower authorities. Having heard rival submissions, our adjudication would be as under.

3. From the case records, it emerges that assessee did not file any return of income. However, the case was reopened and notice u/s.147 was issued upon formation of belief of escapement of income. The notice u/s.148 was issued on 26-03-2021 against which the assessee did not file any return of income. In the written submissions, the assessee raised various objections on issuance of notice u/s.148. However, the assessee failed to substantiate its case on merits. The Ld. AO, in para 6, rendered a finding that the assessee neither filed return of income nor provided any explanation with regard to contractual receipts as reflected in Form 26AS. The assessee only objected to service of notice u/s.148 of the Act and the objections were disposed-off by speaking order. In the absence of any explanation forthcoming from the assessee, Ld. AO estimated profit of 8% on contractual receipts and added the differential amount of Rs.33.25 Lacs to the income of the assessee on *best judgment* basis u/s.144 r.w.s. 147 of the Act.

4. During appellate proceedings, the assessee similarly assailed validity of notice issued u/s.148 and submitted that this notice was not served on the assessee. The Ld.CIT(A), in para 6.3 of impugned order, rendered a finding that in the present case, notice was issued and served as per standard operating procedure of the department in online mode through

ITBA on the credentials provided by the assessee himself. There was nothing on record to suggest that assessee had intimated any change in his address / e-mail id / log in credentials. Therefore, said argument could not be accepted. In the absence of any explanation forthcoming from the assessee on quantum addition, Ld. CIT(A) confirmed the assessment against which the assessee is in further appeal before us. The Ld AR has pleaded for another opportunity of hearing before the lower authorities.

5. Having considered rival submissions and upon perusal of case records, it could be seen that assessee was not able to substantiate its case before lower authorities. The submissions of the assessee primarily assailed assumption of jurisdiction u/s.148 which has been negated by Ld. CIT(A). These findings could not be controverted before us also. However, keeping in mind the principles of natural justice and considering the plea of Ld. AR, the bench deems it fit to provide another opportunity of hearing to the assessee. Accordingly, impugned order is set aside and appeal is restored back to the file of Ld. CIT(A) for de novo adjudication with a direction to the assessee to substantiate its case. No other argument has been urged before us.

6. The appeal stands allowed for statistical purposes.

Order pronounced in open court on 07th March, 2024.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / **VICE PRESIDENT**

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 07-03-2024
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF