

आयकर अपीलीय अधिकरण, 'ए', न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' 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.1332/CHNY/2023
निर्धारण वर्ष /Assessment Year:2017-2018

Shri Venkatesan,
No.T/D 122, Koyambedu,
Chennai 600092.

The Income Tax Officer,
v. Non Corporate Ward 8(1)
Chennai.

PAN: AADPV 2269F

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri G. Baskar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri ARV Sreenivasan, IRS, Addl. CIT.

सुनवाई की तारीख/Date of Hearing

: 12.03.2024

घोषणा की तारीख/Date of Pronouncement

: 12.03.2024

आदेश /ORDER

PER MAHAVIR SINGH, VP:

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/250/2023-24/1057134219 (1) dated 17.10.2023. The assessment was framed by the Additional/Joint/Deputy/Assistant Commissioner of Income Tax/ Income-tax Officer, National Faceless Assessment Centre, Delhi u/s.147 r.w.s. 144 of the

Income Tax Act, 1961 (hereinafter the 'Act') for the assessment year 2017-18 vide order dated 29.03.2022.

2. Brief facts of the case are that assessee is an individual engaged in business of wholesale trading in vegetable and fruits. As per the information received in insight portal under the category "CRIU/VRU High risk cases, it was found that assessee had made cash deposits of Rs.2,77,93,600/-. A notice u/s.148 of the Act was issued on 29.03.2021. However, assessee did not file return of income in response to notice issued u/s.148 of the Act. As assessee failed to file the return of income, the Id. Assessing Officer added a sum of Rs.2,77,93,600/- as unexplained money u/s.69A of the Act to the total income of the assessee. Aggrieved, assessee preferred an appeal before the Id. CIT(A).

3. The CIT(A) also confirmed the action of the AO for the reason that the assessee has not filed any reply to the notices issued. Aggrieved, assessee preferred an appeal before us.

4. Now before us, the Id.counsel for the assessee submitted that the assessment was framed ex-parte and best judgment assessment u/s.144 of the Act for assessing the cash deposits made by assessee amounting to

Rs.2,77,93,600/- and he requested to setting aside the appeal to the file of the Id. Assessing Officer.

5. When these facts were confronted to Id. Senior Departmental Representative, he objected to setting aside of this appeal to the file of the Assessing Officer for the reason that the AO as well as CIT(A) has provided many opportunities but the assessee did not avail for the reasons best known to him.

6. We have heard rival contentions and gone through facts and circumstances of the case. We noted that the assessee was provided many opportunities by both the authorities below but assessee did not avail the opportunities but in the interest of natural justice, we are of the view that to do substantial justice one more opportunity be provided to the assessee to represent the true and clear facts before the AO and hence, we set aside the orders of the lower authorities i.e., the AO and the CIT(A) and remand the matter back to the file of the AO with a cost of Rs.25,000/- to be paid to the Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras on or before 26.04.2024. The assessee will pay this cost and produce the receipt before the AO. In term of the above, the orders of the lower authorities are set aside and matter restored back to the file of the AO for fresh adjudication. Needless to say that the AO will allow reasonable opportunity of being heard

to the assessee and assessee is also directed to represent his case as and when notice is issued, otherwise adverse view can be taken against the assessee.

7. 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 12th March, 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 12th March, 2024

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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