

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

श्री महावीर सिंह, उपाध्यक्ष के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

आयकर अपील सं./I.T.A. No. 1596/CHNY/2023
निर्धारण वर्ष/Assessment year : 2017-2018

Amarnath Dhakshnamoorthy,
30/155/1, H1 Sai Enclave,
1st floor, Safilguda Krupa Complex,
Neredmet,
Hyderabad 500 056.

Vs. The Income Tax Officer,
Ward 2,
Puducherry.

[PAN AMAPD 9505H]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri. S. Girish Kumar, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri D. Hema Bhupal, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing

: 21.02.2024

घोषणा की तारीख /Date of Pronouncement

: 21.02.2024

आदेश/ ORDER

This appeal by assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi in Order No.ITBA/NFAC/S/250/2023-24/1058317951 (1), dated 29.11.2023. The assessment was framed by the Income Tax Officer, Ward 2, Puducherry for the assessment year 2017-2018 passed u/s.144 of the Income Tax Act, 1961 (in short 'the Act') vide order dated 21.12.2019.

2. The first issue in this appeal of the assessee is against the order of the Id. CIT(A) in dismissing the appeal ex-parte without providing opportunity of being heard to the assessee in gross violation of principles of nature justice. Ld. Counsel for the assessee drew my attention to ground No.2 & 3:-

'2. The NFAC, Delhi erred in dismissing the appeal ex-parte and ought to have appreciated that any order passed in gross violation of principles of natural justice should be reckoned as nullity in law.

3. The NFAC, Delhi failed to appreciate that the provisions of Section 250(6) of the Act were not followed in passing the impugned order and hence ought to have appreciated that ex-parte order under consideration was passed out of time, invalid, passed without jurisdiction and not sustainable both on facts and in law''.

3. I have heard the rival contention and perused the material on record. I noticed from the assessment order that assessment was completed by making an addition of unexplained money amounting to Rs.12,89,000/- being cash deposits made during demonetization period in specified bank notes amounting to Rs.13,99,000/- u/s. 69A of the Act. As there was no response from the assessee side despite many opportunities by the Id. Assessing Officer, the Id. Assessing Officer framed ex-parte assessment by making an addition of Rs.12,89,000/- being cash deposited during demonetization period in specified bank notes as unexplained money u/s.69A of the Act. Before the Id. CIT(A) also, assessee did not

represent though Id. CIT(A) fixed the appeal for hearing three times. As there was no response from assessee side, Id. CIT(A) passed ex-parte order. Aggrieved, assessee preferred an appeal before the Tribunal. When this was pointed out to the Ld. Counsel for the assessee what was the fault on the part of the Id. Assessing Officer or Id. CIT(A), he could not point out anything. The Id. CIT(A) as well as Id. Ld. Assessing Officer were left with no alternative except to decide the issue by making an addition since there was no response from the assessee. When these facts were confronted to the Id. Senior Departmental Representative he requested for confirming the orders of the Id. Ld. Assessing Officer and that of Id. CIT(A). In the given facts and circumstances of the case, nothing is emanating from the orders of the Id. Ld. Assessing Officer as well as Id. CIT(A) as there was no representation and both the orders are ex-parte, I am of the view that in the interest of natural justice, the matter is remitted back to the file of the Id. Assessing Officer for fresh adjudication denovo with a cost of Rs.10,000/- 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.

4. In the result, the appeal of the assessee in ITA No.1596/Chny/2023 for assessment year 2017-2018 is allowed for statistical purposes.

Order pronounced in the open court at the time of hearing on 21st day of February, 2024, at Chennai.

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

चेन्नई/Chennai

दिनांक/Dated:21 .02.2024.

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

- 01 अपीलार्थी/Appellant
- 02 प्रत्यर्थी/Respondent
- 03 आयकर आयुक्त/CIT
- 04 विभागीय प्रतिनिधि/DR
- 05 गार्ड फाईल/GF

