

**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. 1597/CHNY/2023  
निर्धारण वर्ष/Assessment year : 2017-2018.

Arumugam Hema,  
9, Thillai Maistry Street,  
Pondicherry (UT) 605 001.

**Vs.** The Income Tax Officer,  
Ward 1,  
Puducherry.

[PAN AARPH 5911J]

**(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/ O R D E R**

This appeal by the 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/250/2023-24/1058341004 (1), dated 30.11.2023. The assessment was framed by the Income Tax Officer, Ward 1, Puducherry for the assessment year 2017-2018, passed u/s.144

of the Income Tax Act, 1961 (in short 'the Act') vide order dated 01.10.2019.

2. Brief facts of the case are that assessee is an individual and not filed her return of income for the assessment year 2017-18. It was found that assessee had deposited substantial cash deposits during demonization period. A notice u/s.142 (1) of the Act dated 30.11.2017 was issued to the assessee for filing the return of income. However, assessee has not responded to the notice u/s.142(1) of the Act, hence notice u/s.274 RWS 272A (1)(d) of the Act dated 02.11.2018 was issued and served. Again there was no response from assessee side and the case was reposted vide letter dated 16.04.2019. Assessee's authorized representative filed a letter dated 26.04.2019 and requested for adjournment. Neither the assessee nor her authorized representative attended the hearing nor written submissions were filed. The Id. Assessing Officer issued notice u/s.133(6) of the Act to Catholic Syrian Bank on 08.03.2019. It is found that assessee has two bank accounts Viz Mrs. Mahalakshmi @Hema Arumugam and M/s. Sri Mani Wines and made cash deposits during demonetization period in specified bank notes amounting to Rs.1,24,500/- and Rs.19,70,950/- respectively aggregating to Rs. 20,95,450/-. Again, a show cause notice dated 06.09.2019 was issued to the assessee. However, assessee failed to comply with the terms of notice. Hence, the

Id. Assessing Officer added a sum of Rs.20,95,450/- as unexplained money u/s. 69A of the Act. Further, it is found that assessee is doing business in the name of M/s.Mani Wines and her gross turnover comes to Rs.1,25,64,450/-. Since assessee have not maintained any books of accounts nor filed her return of income, the balance of Rs.1,04,69,000/- (Rs.1,25,64,450/- (-) Rs.20,95,450/-) was assessed under estimate basis @8% and worked out to Rs.8,37,520/- as underreported business income and added the same to her total income. 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 the Tribunal.

**4.** Now before me, 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. 20,95,450/- and underreported business income of Rs.8,37,520/- 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. I have heard rival contentions and gone through facts and circumstances of the case. I 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, I am 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, I 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.5,000/- 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 12<sup>th</sup> March, 2024 at Chennai.

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

चेन्नई/Chennai

दिनांक/Dated: 21.02.2024.

**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

