

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1453/Chny/2023
निर्धारण वर्ष/Assessment Year: 2016-17

Amudha Raghothaman, No.14/4, Kariyan Ponnann Street, Venkatesa Nagar, Ullagaram, Chennai-600 091.	v.	The Asst. Commissioner- of Income Tax, Non-Corporate Range-22, Tambaram.
[PAN: AFVPA 2515 G]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Dr.M.Sathya Kumar, Adv. (by virtual)
प्रत्यर्थी की ओर से /Respondent by	:	Shri D.Hema Bhupal, JCIT
सुनवाईकीतारीख/Date of Hearing	:	30.04.2024
घोषणाकीतारीख /Date of Pronouncement	:	30.04.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Commissioner of Income Tax (Appeals), Income Tax Department, National Faceless Appeal Centre, Delhi, dated 11.10.2023 for the Assessment Year (hereinafter 'AY') 2016-17 against the penalty confirmed u/s.271(1)(c) of the Income Tax Act, 1961 (hereinafter 'the Act').



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2. At the outset, we note that the Ld.CIT(A) has passed the impugned order *ex parte*, because, according to him, even though, four notices were sent, the assessee did not respond, which fact, the Ld.CIT(A) has noted at Para No.5 of his impugned order. The Ld.CIT(A) has merely confirmed the action of the AO, since no material was brought on record to assail the action of the AO levying penalty of Rs.3,15,000/- u/s.271(1)(c) of the Act. Aggrieved, the assessee is in appeal before this Tribunal.

3. First of all, we do not countenance the impugned action of the Ld.CIT(A), since, it is *per se* violates natural justice qua assessee. As per the mandate of Sec.250(6) of the Act, the Ld.CIT(A) while disposing of the appeal is duty bound to state the reason for his decision which of course he should do after giving proper opportunity to assessee. Since, it is noted that there is no mention of service of notice and admittedly assessee was not heard before passing the impugned order and moreover, the grounds of appeal has not been considered and disposed of as per Sec.250(6) of the Act, we are inclined to set aside the impugned order and restore the appeal back to the file of the Ld.CIT(A) with a direction to give proper opportunity to the assessee, and after hearing the assessee pass order in accordance with sub-section (6) of Sec.250 of the Act. The assessee is directed to be diligent and to file written



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Amudha Raghothaman

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submissions/documents to substantiate its contentions against the levy of penalty if advised to do so. The Ld.CIT(A) to pass reasoned order while disposing of the appeal of the assessee.

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

Order pronounced on the 30th day of April, 2024, in Chennai.

Sd/-
(एस. आर. रघुनाथा)
(S.R.RAGHUNATHA)
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 30th April, 2024.
TLN, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF