

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकरअपील सं./ ITA No.369/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-18)

Boopathy,
No.40/4C, Amman Apartment,
Velasamy Street,
Salem 636 009.

Vs. The Income Tax Officer,
Ward 1(1),
Salem.

[PAN: AVGPB6982K]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri. S. Sridhar, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri. ARV Srinivasan, Addl. CIT.

सुनवाई की तारीख/Date of Hearing

: 02.05.2024

घोषणा की तारीख /Date of Pronouncement

: 06.05.2024

आदेश / ORDER

MANU KUMAR GIRI (Judicial Member)

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/250/2023-24/1059158084 (1) dated 28.12.2023. The assessment was framed by the Income Tax Officer, Ward 1(2), Salem for the assessment year 2017-18 passed u/s.144 of the Income Tax Act, 1961 (hereinafter the 'Act'), vide order dated 25.09.2019.

2. Facts apropos are that the assessee is an individual, has deposited a cash of Rs.37,46,100/- during demonetization period and the assessee had not filed the return of income. Assessee did not appear before the Assessing Officer hence failed to explain sources for the cash deposits. Therefore, AO passed order under section 144 of the Income Tax Act, 1961 (In short 'Act') dated 25.09.2019 made an addition towards on account of cash deposits during demonetization period on the basis of bank account statement for the A/c No.611905048640.

3. Aggrieved, the appellant filed the appeal against the order under section 144 of the Act dated 25.09.2019 before the Ld. CIT(A) wherein the assessee did not appear before the first appeal authority. Accordingly, the assessment was confirmed on merits against which assessee is in further appeal before us.

4. At the outset, Ld. Counsel for the appellant submitted that Ld. CIT(A) had not properly followed the principles of natural justice. Ld. Counsel for the appellant further prayed that if an adequate opportunity of hearing is given to appellant, appellant would prosecute its case properly before the Ld. CIT(A).

5. Per contra, the Ld. Sr. Departmental Representative pleaded for dismissal of the appeal on the ground that the assessee failed to appear before the Id. first appellate authority.

6. We have heard the rival contention and perused the material on record. Though we appreciate the submissions of Ld. Sr. DR however, keeping in mind the principle of natural justice and grant another opportunity of hearing to the

assessee. Accordingly, the impugned order is set aside and the appeal is restored back to the file of Ld. CIT(A) for adjudication on merits after affording proper opportunity of hearing to the assessee subject to cost of Rs.5000/- which shall be deposited by the assessee within 30 days from the date of receipt of this order to 'Tamil Nadu State Legal Services Authority' at Hon'ble High Court of Madras. The proof of the same will be furnished by the Assessee before Ld. CIT(A). The assessee is directed to substantiate its case forthwith without any fail, failing which Ld. CIT(A) shall be at liberty to proceed with the disposal of the appeal on merits.

7. In the result, appeal filed by the assessee in ITA No.369/CHNY/2024 for assessment year 2017-2018 is allowed for statistical purpose.

Order pronounced in the open court on 6th May, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(**MANOJ KUMAR AGGARWAL**)

लेखा सदस्य / **ACCOUNTANT MEMBER**

Sd/-

(मनु कुमार गिरि)

(**MANU KUMAR GIRI**)

न्यायिक सदस्य / **JUDICIAL MEMBER**

चेन्नई Chennai:

दिनांक Dated :06-05-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

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