

**आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' 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 Nos.292, 293, 294 & 295 /Chny/2022  
(निर्धारणवर्ष / Assessment Years: 2009-10, 2011-12, 2012-13,  
2013-14)**

Shri T.D. Tataji,  
No.61, D.D.Nagar Bus Stop,  
Kunnavalam Post,  
Chennai to Tirupathi National Highways,  
**Thiruvallur 631 210.**

**Vs.** The Assistant Commissioner of  
Income Tax,  
Central Circle 2(3)  
Chennai

**[PAN: AELPT 4479F]**

**ITA No.296/CHNY/2022  
Assessment year 2010-2011**

Shri. T.D. Naidu,  
No.61, D.D.Nagar Bus Stop,  
Kunnavalam Post,  
Chennai to Tirupathi National Highways,  
**Thiruvallur 631 210.**

**Vs.** The Deputy Commissioner of  
Income Tax,  
Central Circle 2(3)  
Chennai

**[PAN AADPN 8927A]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri. S. Sridhar, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri. R. Clement Ramesh Kumar, CIT.

सुनवाई की तारीख/Date of Hearing

: 23.04.2024

घोषणा की तारीख /Date of Pronouncement

: 23.04.2024

**आदेश / O R D E R****MANU KUMAR GIRI (Judicial Member)**

The first three appeals filed by the assessee Shri T.D. Tataji, in ITA Nos.292, 293 & 294/Chny/2022 are arising from common order of Commissioner of Income tax (Appeals)-19, Chennai in ITA Nos.175, 176 & 177/2019-20 vide order dated 25.01.2022. The assessments were framed by the ACIT, Central Circle-II(3), Chennai, (hereinafter referred to as the "AO") for the assessment years 2009-10 & 2011-12 u/s 153C read with Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as the "Act") dated 27.03.2014 and for Assessment Year 2012-13 u/s Section 143(3) read with Section 153B(1)(b) of the Act dated 27.03.2014.

2. The fourth appeal filed by the assessee Shri. T.D. Tataji in ITA Nos.295/Chny/2022 is arising from order of Commissioner of Income tax (Appeals)-19, Chennai in ITA Nos.298/2019-20 vide order dated 27.01.2022. The assessments was framed by the ACIT, Central Circle-II(3), Chennai, (hereinafter referred to as the "AO") for the assessment year 2013-14 u/s 144 read with Section 147 of the Income Tax Act, 1961 dated 29.12.2017.

3. The last appeal filed by the assessee Shri. Shri. T.D. Naidu, in ITA Nos.296/Chny/2022 is arising from order of Commissioner of Income tax (Appeals)-19, Chennai in ITA Nos.287/2018-19 vide order dated 27.01.2022. The assessments

was framed by the DCIT, Central Circle-2(3), Chennai, (hereinafter referred to as the "AO") for the assessment year 2013-14 u/s 250(6) read with Section 153A read with 143(3) of the Income Tax Act, 1961 dated 29.12.2018.

4. During the course of hearing, it is noticed that four appeals in ITA Nos.292, 293, 294 & 296/Chny/2022 are delayed by 23 days and one appeal in ITA No.295/Chny/2022 is delayed by 37 days on account of Covid-19 pandemic and said periods falling under exclusion period commencing from 15.03.2020 to 28.02.2022. To this, Ld. CIT-DR has not objected. In the light of the reasons given we condone the delay and admit these appeals for adjudication.

5. At the outset, the Id. Counsel for the assessee stated that preliminary ground in all these five appeals is that no effective and adequate opportunity of being heard were granted by the CIT(A). The Id. Counsel stated that the peculiar fact in the above cases is that the entire affairs of the assessee trust is managed and controlled by the Managing Director of the Deen Dayal Medical & Education Trust and the role of the assessees in the transaction is negligible. It was further contended that no effective representation was granted by the CIT(A) during appellate proceedings. Entire set of appeals hereinabove mentioned were decided by the Id. CIT(A) during Covid-19 period itself. The Id. Counsel furthermore emphasized that all appeals may kindly be set aside to Id. CIT(A) in view of the fact that, in similar circumstances, earlier in group matters in ITA Nos.1276, 1277, 1278

& 1279/2018 for A.Ys. 2009-10, 2010-11, 2011-12 & 2012-13 and in ITA Nos. 1392 and 1275/Chny/2018 for A.Y. 2010-11 and in ITA No.1369 for A.Y.2010-11 and in ITA Nos.1370 and 1391/Chny/2018 dated 28.02.2022 for A.Ys. 2009-10, 2010-11, all the appeals were set aside to Id. A.O. for fresh adjudication which are now pending for adjudication before Id. CIT(A). The observation of the Co-ordinate bench in group matters (supra), in order dated 28.02.2022 at paras 4, 5 & 7 were as under:-

*“4. At the outset the Id.counsel for the assessee stated that preliminary ground in all these nine appeals is that no effective and adequate opportunity of being heard was granted by the CIT(A). The Id.counsel stated that the peculiar fact in the above cases is that the entire affairs of the assessee is managed and maintained by the Managing Director of the Deen Dayal Medical & Educational Trust i.e., Shri T.D. Naidu and the role of the assesseees in the transaction is almost nil. It was contended that the documents and details were impounded by the Department and also by other Government agencies like Enforcement Directorate, CBI, etc. Further, the Id.counsel explained that Shri T.D. Naidu was under judicial custody during the hearings before CIT(A) and this added to the non-appearance and non-production of documents and explanation. The Id.counsel explained that on the similar grounds raised by the Department that when the order of AO was upheld in similar issue in the case of Shri T.D. Naidu, the appeal was remitted back to the file of the AO by this Tribunal in ITA No.1411/Chny/2017, order dated 22.03.2018 by observing in para 3 & 4 as under:-*

*3. The AR submitted that the assessee was in judicial custody as he could not get his bail during the appeal proceedings and was still in judicial custody till the appeal is filed before this tribunal. The CIT(A) dismissed the appeal without effective representation when the assessee was in judicial custody which was known to him. Getting an unfettered bail is the only way to effectively represent himself with free state of mind and in this case it was absent, while the CIT(A) dismissed the appeal without effective representation. Per contra, the DR supported the order of the CIT(A).*

*4. We heard the rival submissions. On the facts represented above, we deem it fit to remit the issues back to the Assessing Officer for a*

*fresh examination. The assessee shall place all the materials in its support before the AO and comply to the AO's requirements as per law. The A O is free to conduct appropriate enquiry as deemed fit, but he shall furnish adequate opportunity to the assessee on the material etc to be used against it and decide the matter in accordance with law.*

*The Id.counsel stated that exactly on same directions, matter can be remitted back to the file of the AO.*

*5. When this was pointed out to Id.CIT-DR, he only requested that matter can be restored back to the file of the CIT(A). But Id.counsel for the assessee stated that the matter may be restored back to the file of the AO because even before AO, there was no proper representation or documents were not filed or not obtained from Government agencies. On this, the Id.CIT-DR agreed that matter can be restored back to the file of the AO.*

*7. After hearing rival contentions and going through the entirety of facts, since in the appeal of Shri T.D.Naidu in ITA No.1411/Chny/2017 order dated 22.03.2018, the Tribunal has already remanded back the matter to the file of the AO, we are also inclined to remit the matter back to the file of the AO in all these appeals after condoning the delay in the above mentioned five appeals. Hence, we set aside the orders of the lower authorities in these appeals and remand the matter back to the file of the AO for fresh adjudication after giving reasonable opportunity of being heard to the assessee”.*

6. On the other hand, Id. CIT-DR strongly objected to the prayer of appellant.

7. Having heard rival submissions and after going through the order of Co-Ordinate Bench dated 28.02.2022, since the appeals in ITA Nos.1276, 1277, 1278 & 1279/2018, ITA Nos. 1392 and 1275/Chny/2018, ITA No.1369 and ITA Nos.1370 and 1391/Chny/2018 have already been remanded back to the file of Assessing Officer and those are now pending for adjudication before Id. CIT(A) and therefore, we set aside the impugned orders of first appellate authority in entirety, remit these appeals to the file of the Id. CIT(A) for denovo and adjudicate alongwith

other matters which are already pending for adjudication after giving fair and effective opportunity of hearing to the assessee.

8. In the result, the appeals filed by the assessee Shri. T.D. Tataji in ITA Nos. 292, 293, 294 & 295/Chny/2022 for assessment years 2009-10, 2011-12, 2012-13, 2013-14 and appeal filed by Shri. T.D. Naidu in ITA No.296/CHNY/2022 for assessment year 2010-2011 are allowed for statistical purposes.

Order pronounced in the open court at the time of hearing on 23<sup>rd</sup> April, 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 : 23-04-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

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