

आयकर अपीलिय अधिकरण , 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI  
श्री एसएस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।  
Before Shri S.S. Viswanethra Ravi, Judicial Member &  
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. No.110/Chny/2024

निर्धारण वर्ष/Assessment Years: 2012-13

Mr.Kamaludeen,  
No.59, Denkanikotta Road,  
Opposite to R.C.Church,  
Shanti Nagar(West),  
Hosur-635109.

Vs. ITO  
Ward-1,  
Hosur.

[PAN: AJDPK0299D]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S.Sridhar, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri P.Sajit Kumar, JCIT  
सुनवाई की तारीख/ Date of hearing : 02.05.2024  
घोषणा की तारीख /Date of Pronouncement : 08.05.2024

**आदेश / O R D E R**

**PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:**

This appeal by the assessee is against the order dated 28.12.2023 passed by the CIT(A), NFAC, Delhi, for the Assessment Year 2012-13.

2. The assessee raised five grounds of appeal, amongst which the only issue emanates for our consideration as to whether the CIT(A), NFAC, Delhi is justified in confirming the order of AO by dismissing the appeal for non-compliance of section 249(4)(b) of the Act in the facts and circumstances of the case.

3. We note that the assessee is an individual. The AO issued notice u/s.148 of the Act seeking the assessee to file return of income on receipt of information that cash deposits in assessee's account. Under scrutiny, the AO determined the income of the assessee at Rs.22,27,541/- inter alia making addition of Rs.16,40,300 on account of unexplained investments u/s.69A of the Act vide order dated 14.09.2021 passed u/s.147 read with 144B of the Act. The same was challenged before the CIT(A), NFAC, Delhi. The CIT(A), NFAC, Delhi dismissed the appeal of the assessee "**in-limine**" for non-compliance of clause-(b) of Sub-section-4 of Section 249 of the Act. Aggrieved by the order of CIT(A), NFAC, Delhi, the assessee is before us.

4. The Id.AR S.Sridhar, Advocate submits that the reasoning given by the CIT(A), NFAC, Delhi in dismissing the assessee's appeal is incorrect and drew our attention to the computation framed by the AO at Page No.45 of the appeal memo. He referred to Column-18 and

submits that the AO himself considered advance tax credit of Rs.50,000/- in making computation. The same was brought to the notice of CIT(A), NFAC, Delhi through written submissions dated 11.12.2023 and the CIT(A), NFAC, Delhi did not consider the advance tax credit during the disposal of appeal. The Id.DR Shri P.Sajit Kumar did not dispute the same. On perusal of the impugned order, we note that the CIT(A), NFAC, Delhi dismissed the appeal of the assessee only on the ground of non-compliance has been made in pursuance of Clause-(b) of Sub-Section-4 of Section 249 of the Act wherein the assessee in Column No.9 of Form-35, by mistake, it was stated, the non-applicability advance tax as per Section 249(4)(b) of the Act. The Id.AR submits that by inadvertent mistake, the assessee made endorsement as non-applicability but the payment of advance tax credit is supported by the computation framed by the AO. Further, on perusal of the Page No.13 & 15 of the appeal memo wherein the fact of payment of advance tax credit was brought to the notice of CIT(A), NFAC, Delhi well before the **passing** of impugned order but however, not considered by the CIT(A), NFAC, Delhi. Therefore, we find force in the arguments of Id.AR that the reasons given by the CIT(A), NFAC, Delhi in dismissing the appeal “in-limine” for non-

compliance of Section 249(4)(b) of the Act is incorrect. Since no finding was given on the merits of the case, we deem it proper to remand the matter to the file of CIT(A) NFAC, Delhi for fresh consideration. The assessee is liberty to file evidence, if any, in support of his claim. Thus the grounds raised by the assessee is allowed for the statistical purpose.

5. In the result, the appeal of assessee is allowed for statistical purposes.

Order pronounced on 8<sup>th</sup> May, 2024 at Chennai.

Sd/-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER

Sd/-  
(S.S. VISWANETHRA RAVI)  
JUDICIAL MEMBER

Chennai, Dated-08.05.2024

Kb/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT,
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.