

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, HON'BLE JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: 1517/Chny/2023

निर्धारण वर्ष / Assessment Year: 2017-18

DPD 82 Krishnagiri District
Cooperative Milk Producers
Union Ltd.,
Kanagamutlu Post,
Salem Main Road,
Krishnagiri – 635 001.

[PAN: AAAAT-0542-P]

(अपीलार्थी/Appellant)

अपीलार्थी की ओर से/Appellant by

प्रत्यर्थी की ओर से/Respondent by

ACIT,
v. Circle -1,
Hosur.

(प्रत्यर्थी/Respondent)

: Shri. CA.M. Ashok, MBA, ACA

: Shri. D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing : 01.05.2024

घोषणा की तारीख/Date of Pronouncement : 08.05.2024

आदेश /ORDER

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal by the assessee is filed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2017-18, vide order dated 25.10.2023.

2. The brief facts are that, the assessee is a cooperative society, engaged in the business of milk processing in the brand name of 'Aavin'. The assessee has filed its return of income u/s. 139 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the assessment year 2017-18 on 29.10.2017. The case was selected for scrutiny under CASS and accordingly, notices u/s. 143(2) and 142(1) of the Act were issued to the assessee. However, according to the Assessing Officer, there was no response on the part of the assessee promptly so that to pass best judgment assessment order u/s. 144 of the Act by making the following additions:

(i) cash deposits made to the bank account during the period of demonetization as unexplained income of Rs.6,53,24,424/- u/s. 69A r.w.s. 115BBE of the Act.

(ii) the amount claimed as "any other amount allowable as deduction" in Schedule BP of the return of income to the tune of Rs.2,04,77,681/- and added to the business income.

(iii) the rental income shown at Rs.5,96,791/- in Form 26AS, after allowing deduction of 30% u/s. 24(a) of the Act of Rs.1,79,037/- and arrived at a net income from house property at Rs.4,17,754/- and concluded the assessment.

3. Aggrieved by the aforesaid action of the Assessing Officer, the assessee filed an appeal before the Id. CIT(A), which was decided on the same reasons that despite of being given many opportunities, assessee did not participate. So, he was pleased to dismiss it. Aggrieved by the impugned order of the Id. CIT(A), the assessee has preferred this appeal before us.

4. The Ld. Counsel for the assessee, stated that the assessee is a cooperative society and the nature and business is milk processing and catering to the public/consumers through their appointed agents across the district on daily basis. Describing the modus operandi of the society he submitted that sale proceeds of the milk and milk products are collected on daily basis by the appointed agents in the form of cash and deposited in their bank accounts i.e, of the society. Therefore, according to Id. AR, collection of cash and depositing the same in the bank account of the society is a regular business activity, which is not an activity carried out only during demonetization period. Hence, according to him, the additions made u/s. 69A r.w.s. 115BBE of the Act, is erroneous and hence the same needs to be deleted. In the alternate, Id. AR pleads that since the assessee did not get proper opportunity before the

Assessing Officer, he requested to remand back the issue to the file of the Assessing Officer for denovo consideration.

5. Per contra, the Id. DR, supporting the action of Id. CIT(A) contended that assessee has been given enough opportunities and one more innings should not be given to assessee.

6. We have heard the rival contentions and gone through the facts and circumstances of the case. We noted that assessee is cooperative society and due to non-participation before the Assessing Officer/CIT(A) both authorities have passed orders. The plea of the assessee was that the non-appearance/participation was not deliberate and the Id. AR undertakes to appear before the authorities, provided an opportunity is given. Since, exparte orders have been passed by both authorities we deem it fit to restore the assessment back to the file of the Assessing Officer by relying on the decision of the Hon'ble Supreme Court in the case of Tin Box Company vs CIT, [2001] 249 ITR 216 (SC) and direct the Assessing Officer to denovo frame assessment in accordance to law, after providing reasonable opportunity to the assessee.

Needless to say, assessee to be diligent and file written submissions and relevant documents if advised so.

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

Order pronounced in the open court on 08th May, 2024 at Chennai.

Sd/-
(एबी टी वर्की)
(ABY T VARKEY)
न्यायिक सदस्य/**Judicial Member**

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 08th May, 2024

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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