

आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' 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**

आयकर अपील सं./ ITA No.603/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-18)

Palaniappan Ravi,
No.888, N.C. Colony,
Elanthakuttai (PO)
Veppadai,
Namakkal 638 008

Vs. The Income Tax Officer,
Ward 2,
Tiruchengode

[PAN: AMCPR 6276M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri. I. Dinesh, Advocate
: Shri. S. Easwar, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing

: 20.05.2024

घोषणा की तारीख /Date of Pronouncement

: 29.05.2024

आदेश / ORDER

PER MANU KUMAR GIRI (Judicial Member)

This appeal filed by the assessee is directed against the order No.ITBA/APL/S/250/2023-24/1060546407 (1) of the ADDL/JCIT (A)-2, Office of the Ld. Commissioner of Income Tax(Appeal) [CIT(A)], NAGPUR dated 06.02.2024 for Assessment Year 2012-13.

2. The registry has noted delay of 79 days in filing the appeal. Considering the period of delay we condone the delay and admit the appeal for adjudication.

3. It is noticed by us while dictating the order that assessment year mentioned in Form 36 and order sheet are wrongly referred as AY 2017-18 whereas on grounds of appeal, impugned order and assessment order it is mentioned as AY 2012-13. Hence, we proceed taking AY as 2012-13 on the basis of impugned order. Registry is directed to correct the assessment year in its computer data for accurate information.

4. At the outset, Ld. Counsel for the appellant submitted that Ld. CIT(A) had violated the principles of natural justice in sending purported notices 24.12.2021, 07.02.2022 and 12.05.2023 etc to the Assessee. Ld. Counsel for the appellant further prayed that if an adequate opportunity of hearing is given to appellant, appellant would prosecute his case properly before the lower authorities. The Ld. JCIT-DR Mr. S. Easwar pleaded for dismissal of the appeal on the ground that the assessee failed to appear even before the Id. first appellate authority.

5. From the case record, it emerges that while completing assessment u/s 144 of the Income Tax Act, 1961 (In short 'the Act') the assessing officer (In short 'AO') made an addition of Rs.23,32,961/- maintained with State Bank of India at SME Branch, Pallipalayam on account of unexplained money under section 69A of the Act. Upon further appeal, the position remained the same and the assessee did not appear before the first appeal authority also. Accordingly, the appeal is dismissed on merits by the Ld.CIT(A) for the reason that assessee failed to file relevant documents, against which assessee is in further appeal before us.

6. Though we appreciate the submissions of Ld. Sr. DR however, keeping in mind the ex-parte assessment order u/s 144 of the Act and the principles of natural justice we deem it fit to grant another opportunity of hearing to the assessee to substantiate his case. Accordingly, the impugned order is set aside and the assessment is restored back to the file of Ld. A.O. for de novo assessment 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. A.O. whose shall proceed for de novo assessment. The assessee is directed to file cogent evidence, if any, to substantiate his case forthwith without any fail, failing which Ld. A.O. shall be at liberty to proceed with the de novo assessment on merits.

7. In the result, the appeal stands allowed for a statistical purposes.

Order pronounced on 29th day of May, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai:

दिनांक Dated : 29-05-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

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

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER