

आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' (SMC)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.625/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-18)

Kasthuri
No.5-A, Station Road,
Villivakkam 600 049.
Chennai.

Vs. The Income Tax Officer,
Non Corporate Ward 10(2)
Chennai.

[PAN: DHGPK 9969E]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri. S. Girish Kumar, 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/NFAC/S 250/2023-24/1058933600 1) of the Ld. Commissioner of Income Tax(Appeal)(NFAC) Delhi [CIT(A)] dated 20.12.2023 for Assessment Year 2017-18. The assessment was framed by the The Income Tax Officer, Non Corporate Ward 10(2) , Chennai vide order dated 26.09.2019.

2. The registry has noted delay of 22 days in filing the appeal. Considering the period of delay we condone the delay and admit the appeal for adjudication.

3. At the outset, Ld. Counsel for the appellant submitted that Ld. CIT(A) had violated the principles of natural justice in sending purported notices 11.01.2021, 16.11.2023 and 27.11.2023 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.

4. From the case record, it emerges that while completing assessment u/s144 of the Income Tax Act, 1961 (In short 'the Act') the assessing officer (In short 'AO') made an addition of Rs.21,00,000/- out of the total cash deposits of Rs.27,00,000/- maintained with Canara Bank at Villivakkam Branch on account of income from other sources 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 and chose to remain silent about the addition against which assessee is in further appeal before us.

5. 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. 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. आयकर आयुक्त/CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER