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

आयकरअपील सं./ ITA No.637/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2016-17)

VSS Constructions, 90, Gandhi Nagar, Dharmapuri, Tamil Nadu 636 701.	**Vs.**	The Deputy Commissioner of Income Tax, Circle 1(1) Salem
[PAN: AAGFV 1379R] (**अपीलार्थी**/Appellant)		(**प्रत्यर्थी**/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri. G.Baskar, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Shri. S. Easwar, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing	:	20.05.2024
घोषणा की तारीख /Date of Pronouncement	:	29.05.2024

आदेश / O R D E R

PER MANU KUMAR GIRI (Judicial Member)

This appeal filed by the assessee is directed against the order of the Ld. Commissioner of Income Tax(Appeal)(NFAC) Delhi [CIT(A)] dated 09.01.2024 for Assessment Year 2016-17.

2. At the outset, Ld. Counsel for the appellant submitted that Ld. CIT(A) had violated the principles of natural justice in sending purported notices from 2022 to

till 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 Ld. AO.

03. On the other hand, the Ld. Sr. DR pleaded for dismissal of the appeal on the ground that the assessee failed to appear even before the ld. first appellate authority.

04. From the case record, it emerges that the case was reopened under section 147 of the Income Tax Act, 1961 (In short 'the Act') as the appellant had received interest of Rs.1,57,991/- and contract receipts of Rs. 3,19,57,941/- which the appellant had not declared, as the return of income for the year under consideration is not filed. Despite notice under sections 148 and 142(1) appellant did not file return of income or participated in the reassessment proceedings. Hence, Assessing Officer (In short 'AO') passed assessment order u/s147 r.w.s 144 read with 144B of the Act and made addition of Rs.3,21,15,932/- 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 for the reason that assessee is not interested in prosecuting the case and for no response against which assessee is in further appeal before us.

5. Though we appreciate the submissions of Ld. Sr. DR however keeping in mind 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 adjudication 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.

6. In the result, the appeal of the assessee stands allowed for a statistical purposes.

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

Sd/-	Sd/-
(मनोज कुमार अग्रवाल)	**(मनु कुमार गिरि)**
(MANOJ KUMAR AGGARWAL)	**(MANU KUMAR GIRI)**
लेखा सदस्य / ACCOUNTANT MEMBER	**न्यायिक सदस्य / JUDICIAL MEMBER**

चेन्नई Chennai:
दिनांक Dated : 29-05-2024
KV

<u>आदेश की प्रतिलिपि अग्रेषित /Copy to :</u>

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