

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.602/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-18)

Thulasingham Sambath
28, Perumal Kovil Street,
Tindivanam 604 001.

Vs. The Income Tax Officer,
Ward 2,
Villupuram.

[PAN: DYRPS 5704K]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Ms. Nidhi D. Jain, C.A.,

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 / ORDER

PER MANU KUMAR GIRI (Judicial Member)

This appeal filed by the assessee is directed against the order No.ITBA/NFAC/S/ 250/2023-24/1059986837 (1) of the Ld. Commissioner of Income Tax(Appeal)(NFAC) Delhi [CIT(A)] dated 22.01.2024 for Assessment Year 2017-18. The assessment was framed by The Income Tax Officer, Ward 2, Villupuram vide order dated 11.12.2019.

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 11.05.2022, 03.01.2024 and 11.01.2024 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 ld. first appellate authority.

3. 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.15,28,500/- deposited with Corporation Bank at Tindivanam Branch during the demonetization and treated the same as 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.

4. 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.

5. In the result, the appeal in ITA No.602/CHNY/2024 for assessment year 2017-2018 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

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL 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