

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

Shanmugam Vadivel  
By V. Prabhuraj Son, legal heir  
and legal representative,  
No.3, Manikanda Mudali 4<sup>th</sup> street,  
Old Washermanpet,  
Chennai 600 021.

**Vs.** The Income Tax Officer,  
Non Corporate Ward 6(1)  
Chennai.

**[PAN: AACPV 4031C]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri. M. Razzack, FCA.

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 No.ITBA/NFAC/S/250/2023-24/1057933443 (1), dated 03.11.2023 of the Ld. Commissioner of Income Tax(Appeals)(NFAC) Delhi [CIT(A)] for A.Y. 2017-18. The assessment was completed by The Income Tax Officer, Non Corporate Ward 6(1) Chennai vide order dated 21.12.2019.

2. The registry has noted delay of 54 days in filing the appeal. Considering the period of delay and reasons deposed at para 4 of the affidavit given by Mr. V. Prabhuraj (son) legal heir and legal representative of Late Mr. Shanmugam Vadivel, we condone the delay and admit the appeal for adjudication.

3. From the case record, it emerges that Assessing Officer passed assessment order under section 143(3) of the Act vide order dated 21.12.2019 and made additions on account of cash deposits Rs.54,70,400/- during demonetization period treated as unexplained income u/s 69 r.w.s115BBE, Rs.85,38,052/- on account of difference the purchase value in ITR and the purchase as per VAT return and Rs.63,000/- as notional interest. Upon further appeal, the assessee did not appear before the first appeal authority. Although additions of Rs.85,38,052/- on account of difference the purchase value in ITR and the purchase as per VAT return, Ld.CIT(A) has directed AO to verify the claim made out by the appellant from VAT return and the P&L Account and grant relief if allowable on fact and regarding Rs.63,000/- as notional interest has been allowed by the Ld.CIT(A). In respect of addition on account of cash deposits of Rs.54,70,400/- during demonetization period treated as unexplained income u/s 69 r.w.s115BBE, Ld.CIT(A) has confirmed the addition on merits on the basis of statements of

facts as assessee failed to appear and substantiate his case. Now assessee is in further appeal before us.

4. Ld. Counsel submitted that since CIT(A) has directed AO to verify purchases, hence he also prayed for set aside the issue of cash deposits Rs.54,70,400/- during demonetization period treated as unexplained income u/s 69 r.w.s115BBE before Ld.CIT(A) for fresh adjudication wherein assessee would submit evidence to substantiate/explain the cash deposits. The Ld.DR, Shri S. Easwer, JCIT supported the orders of Ld.CIT(A) and AO. He further submitted that there is no ambiguity or infirmity in the order of Ld.CIT(A).

5. Though we appreciate the submissions of Ld. Sr. DR however keeping in mind the principle of natural justice and assessment order, we deem it fit to grant another opportunity of hearing to the assessee to substantiate its case before the AO. Accordingly, for limited purpose the issue of cash deposits of Rs.54,70,400/- during demonetization period is set aside to the file of AO 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 receipt will be furnished by the assessee to AO whose shall proceed for de novo adjudication of the issue of cash deposits of

Rs.54,70,400/- during demonetization period. The assessee is directed to substantiate his case forthwith without any fail, failing which AO shall be at liberty to proceed with the disposal of the case 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/-

(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
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF