

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष  
BEFORE SHRI ABY T. VARKEY, JM AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.686/Chny/2024  
निर्धारण वर्ष /Assessment Year: 2012-13

Kalakavaru Balusubramanya  
Nagarajan, G1 Block B No.42,  
Sai Yokesh Flat, West  
Vanniyar Street, West K K  
Nagar, Chennai-87.  
[PAN-ACCPN1513H)

The Deputy Commissioner of  
Income Tax  
Vs. Corp. Circle-1(2),  
Chennai-34

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by  
प्रत्यर्थी की ओर से /Revenue by

: Shri Tharish, C.A.  
: Shri P.Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 21.05.2024

घोषणा की तारीख /Date of Pronouncement

: 29.05.2024

**आदेश / ORDER**

**PER AMITABH SHUKLA, A.M :**

This appeal arises from order vide DIN / order No. ITBA/NFAC/S/250/2023-24/1059815727(1) dated 17.01.2024 of the CIT(Appeal)/NFAC whereby the appeal of the assessee was dismissed on account of inadequate prosecution of appeal by the assessee.

2.0 At the outset the Ld.AR argued that there existed genuine and sufficient grounds with the assessee which contributed to making proper

representation and submission before the Ld.CIT(A). It was also submitted that the matter be restored back to the file of the CIT(A) for fresh adjudication and that the assessee assures that full compliance shall be made during appellate proceedings.

3.0 The Ld. DR contested the submissions of the assessee arguing that the assessee did not have a justifiable reason for non-compliance and accordingly relied upon the order of the Ld.CIT(A). It was submitted that the assessee was habitual defaulter and sought adjournments.

4.0 Brief facts of the case are the assessee filed its return of income dated 05.02.2013 declaring an income of Rs. 8, 09,448/-. The return was processed u/s.143 (1) on 01-03-2013. Subsequently the AO received information in the case of the assessee that there were huge cash deposits in the bank account of the assessee & also regarding a property transaction. Hence, the case was reopened u/s. 147 of Income Tax Act (hereinafter the Act) 1961, after prior approval. Notice u/s. 148 dated 29.03.2019 was sent to the assessee which elicited no response. Further a notice u/s. 142(1) dated 19-11-2019 was issued and an opportunity u/s. 129 was afforded on account of change of incumbent. The AO noted that the assessee did not respond to his notices and hence proceeded to make the addition of Rs.63,09,500/- u/s. 69A of the act by passing his assessment order u/s

144 r.w.s 147 dated 18.12.2019. The assessee made an appeal before the Ld.CIT(A).

5.0 The Ld.CIT(A) dismissed the appeal vide order mentioned Supra holding that the assessee did not avail the requested personal hearing through video conference.

6.0 We have heard the rival submissions in the light of facts of the case and material available on records. On perusal of the order it is seen that the Ld.CIT(A) has dismissed assessee's appeal for non-compliance to his notices and proceeded to confirm the additions made by the AO, the latter order also done ex-parte. The appellant has unequivocally assured that it shall comply with all the notices issued by the Revenue. No appellant gains by non-prosecution of its case and reasonable opportunity of being heard is a natural right of every litigant. We are of the view that ends of justice would be met if the assessee is given one last opportunity to present its case and file supporting evidences before the Ld.AO. The matter is restored to file of the AO because he is the first authority who has the right to adjudicate on return of income and in this case the said right could not be exercised because of non-compliance by the tax payer. Accordingly, placing reliance upon the decision in the case of TIN box 249 ITR 216 the matter is restored to the file of the AO for assessment de novo. The assessee is directed to

make complete and correct compliance towards the notices issued by the AO.

7.0 In the result the appeal is partly allowed.

*Order pronounced on 29th May, 2024.*

**Sd/  
(ABY T. VARKEY)  
Judicial Member**

**Sd/-  
(AMITABH SHUKLA)  
Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 29<sup>th</sup> May, 2024.

KB/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Coimbatore / Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF