

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

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखक सदस्य के समक्ष
BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.855/Chny/2024
निर्धारण वर्ष /Assessment Years: 2014-15

Durai Raj Srivalli,
No.2/159, Sakthi Garden,
Kungumapalayam Pirivu,
Tirupur – 641 605.
[PAN: BPWPS-0528-D]

The Income Tax Officer,
Vs. Ward-2(2),
Tirupur.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

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

: Shri Kathir, Advocate
: Shri G. Suresh, JCIT

सुनवाई की तारीख/Date of Hearing

: 22.05.2024

घोषणा की तारीख /Date of Pronouncement

: 22.05.2024

आदेश / **ORDER**

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee for Assessment Year (AY) 2014-15 arises out of the order of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 01.02.2024 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 144 r.w.s 147 of the Act on 27.12.2018.

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2. The Ld. CIT(A) has dismissed the appeal by observing as under:

“2.7. As per section 249(4)(b) of the Act, the appeal shall not be admitted, unless the appellant has paid an amount equal to the amount of advance tax which was payable. As the applicable advance tax has not been paid by the appellant before filing of the appeal, the appeal shall not be admitted. Therefore, the present appeal filed is not admitted as per the provisions of Section 249(4) of the Act.”

3. The Ld. A.R has argued that the assessee has not filled return of income either u/s 139 of the Act or in response to notice u/s 148 of the Act and she has not admitted any advance tax payable, therefore section 249 of the Act is not applicable in her case. The Ld AR submitted that there is no deficiency in Form 35 filled and the Ld CIT(A) has dismissed the appeal without adjudicating on merit .

4. We have heard the rival contentions, and perused the materials available on record. The Assessee has not filled the return of income and has not admitted any advance tax payable. The Ld CIT(A) has not admitted the appeal on the ground that assessee has not paid advance tax before filling the appeal as per section 249(4) of the Act. However it is seen that there is no advance tax payable as per Form 35 and there is nothing on record that assessee has admitted any advance tax. In view of above, the Ld CIT(A) was not justified in not admitting

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the appeal. We direct the Ld. CIT(A) to admit the appeal and adjudicate the appeal on merit

5. In the results, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 22nd May, 2024.

Sd/-

(यस यस विश्वनेत्र रवि)

(SS Viswanethra Ravi)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 22nd May, 2024.

EDN/-

Sd/-

(जगदीश)

(Jagadish)

लेखा सदस्य /Accountant Member

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