

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 Nos.831 & 832/Chny/2024  
निर्धारण वर्ष /Assessment Years: 2016-17

**Nagendran Balaji,**  
A4, Acchuthan Lotus Manor,  
Kamaraj Nagar, South Avenue,  
Thiruvanmiyur,  
Chennai – 600 041.  
**[PAN: AATPB-3557-E]**

**The Income Tax Officer,**  
**Vs. Non Corporate Circle-3(1),**  
Coimbatore.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

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

: Shri Girish Kumar, Advocate  
: Shri A. Sasikumar, CIT

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 appeals filed by the assessee for Assessment Years (AYs) 2016-17 arises out of the orders of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 19-03-2024 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 147 r.w.s 144 r.w.s 144B of

the Act on 23.09.2021 and penalty order passed u/s 271(1)(c) of the Act dated 29-01-2022.

2. The Ld. AR, at the outset, submitted that the quantum assessment orders as well as penalty orders passed by lower authorities are ex-parte orders. Accordingly, Ld. AR sought remand back of impugned matters to the Ld. AO so that the assessee could substantiate his claim before the Ld. AO.

3. The Ld. Sr. DR submitted that the assessee remained negligent in attending any of the proceedings.

4. We have heard the rival submissions, and perused the materials available on record. The A.O has made the addition of entire sale proceeds of Rs. 6,55,00,000/- as short term capital gain without allowing deduction of cost of acquisition. The property was sold by the bank through auction to recover of the loan advanced to assessee. The Bench observed that the notice u/s 142(1) was issued on 09-02-2021 and Section 144/147 of the Act order was passed on 23-09-2021, which was the Covid pandemic period. The Assessee did not appear before the Id CIT(A) despite being given sufficient opportunities. However, the Bench accepts the submission of Ld. AR

: - 3 - :

by observing that after all the orders of the lower authorities are ex-parte orders and keeping in mind the principles of natural justice, the assessee be provided with another opportunity of hearing. Therefore, the impugned orders are set-aside. However, we deem it proper to remand the matters back to the file of the Assessing Officer to pass de-novo assessment. The AO is at liberty to initiate fresh penalty proceeding u/s 271(1)(c) of the Act. The assessee shall appear before the Assessing Officer and furnish complete details for his fresh consideration subject to the condition of payment of Rs.2,500/- each towards cost in favour of the State Legal Aid Authority at Hon'ble Madras High Court within 30 days from the date of receipt of this order.

5. In the result, both the appeals of the assessee are allowed for statistical purposes.

*Order pronounced in the open Court on 22<sup>nd</sup> May, 2024.*

**Sd/-**  
(यस यस विश्वनेत्र रवि)  
(SS Viswanethra Ravi)  
न्यायिक सदस्य / Judicial Member

**Sd/-**  
(जगदीश)  
(Jagadish)  
लेखा सदस्य / Accountant Member

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

EDN/-

:- 4 -:

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