

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.764/Chny/2024
निर्धारण वर्ष/Assessment Year: 2017-18

Shri Ramakrishnan Aathyswamy, 21/1, SLB South Street, Nagercoil, Kanyakumar-629 001.	v.	The ITO, Ward-1, Nagercoil.
[PAN: CDVPA 3345 L]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri S.Krishnan, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Shri ARV Sreenivasan, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	22.05.2024
घोषणाकीतारीख /Date of Pronouncement	:	25.06.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short 'the Ld.CIT(A)'), Delhi, dated 30.01.24 for the Assessment Year (hereinafter in short 'AY') 2017-18.

2. At the outset, the Ld.AR of the assessee pointed out that the Ld.CIT(A) has dismissed the appeal of the assessee without condoning the delay of '133' days. It was brought to our notice that delay was caused



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because the assessee was in the dark about the assessment proceedings and resultant assessment Order passed on 30.03.2022. And only when the assessee received the penalty notice through the post, assessee realized that there was an Assessment Order passed against the assessee; and after learning about it, immediately thereafter, the assessee had filed an appeal before the Ld.CIT(A) against the quantum assessment order dated 30.03.2022 passed u/s.147 r.w.s.144 of the Income Tax Act, 1961 (hereinafter in short "the Act"). According to the Ld.AR, the Ld.CIT(A) while passing the impugned order has not considered the grounds of appeal raised by the assessee and dismissed it without condoning the delay. Therefore, he pleads that since the AO has passed *ex parte* assessment order *qua* assessee without considering the relevant documents and written submissions filed by the assessee and especially the Sale Deed of agricultural land [duly translated from Tamil to English], the assessee prayed that one more opportunity may be granted to the assessee.

3. Per contra, the Ld.DR opposed the contentions of the assessee and submitted that the AO had given opportunity to the assessee, therefore, one more innings should not be given to the assessee.

4. We have heard both the parties and perused the material available on record. We note that assessee had filed his return on 09.02.2018 for



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AY 2017-18 declaring total income of Rs.4,96,800/- and claimed exemption of an amount of Rs.1,05,00,000/- being agricultural income. The AO in order to verify the claim (*genuineness of agricultural income*) issued notice u/s.148 of the Act on 30.03.2021 [*and the assessment was carried out under the Faceless Assessment Scheme*] and notices were also issued through ITBA System. The assessee was unable to upload certain relevant documents/Sale Deed of the agricultural property; and therefore, the AO was of the opinion that the assessee has not substantiated his claim (*agricultural income of Rs.1,05,00,000/-*) without any detailed explanation as called for by him u/s.142(1) of the Act dated 01.12.2021 along with supporting documents. So, he was pleased to add Rs.1,05,00,000/- u/s.69A of the Act. On appeal, the Ld.CIT(A) taking note that the assessee didn't file any condonation petition and since he had complied/responded to AO during assessment proceedings, the Ld.CIT(A) has not condoned the delay and dismissed the appeal, without discussing the merits of the grounds of appeal raised by the assessee which impugned action of the Ld.CIT(A) cannot be countenanced, because, being the First Appellate Authority, he was bound by law to decide the statutory appeal in accordance with sub-sec. (6) of Sec.250 of the Act. Having said so, we note that the AO has also passed the assessment order without giving proper opportunity to the assessee. Therefore, for the ends of justice and fair play and relying on the decision



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Shri Ramakrishnan Athyswamy

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of the Hon'ble Supreme Court in the case of TIN Box Company v. CIT reported in [2001] 249 ITR 216 (SC), we set aside the impugned order of the Ld.CIT(A) and restore the assessment back to the file of the AO with a direction to frame de novo the assessment after giving proper opportunity to the assessee and the assessee is at liberty to file written submissions/relevant documents to substantiate its claim.

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

Order pronounced on the 25th day of June, 2024, in Chennai.

Sd/-
(मनोज कुमार अग्रवाल)
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 25th June, 2024.
TLN, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF