

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **872/CHNY/2024**

निर्धारण वर्ष/Assessment Year: 2017-18

Shri Bhalagam Naidu Raja,
2/26, Melachakattu,
Kalampathu Latheri,
Katpadi,
Vellore – 632 202.

The Income Tax Officer,
Vs. Ward 3,
Vellore.

PAN: ANPPR 0224B

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: None

प्रत्यर्थी की ओर से/Respondent by

: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 24.06.2024

घोषणा की तारीख/Date of Pronouncement

: 24.06.2024

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Order No.ITBA/NFAC/S/250/2023-24/1060261821 (1) dated 30.01.2024. The assessment was framed by the Income Tax Officer, Ward 3, Vellore for the assessment year 2017-18 u/s.144 of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 14.11.2019.

2. At the outset, it is noticed that the assessee has raised the ground that the CIT(A)-NFAC has violated the principles of natural justice in not allowing opportunity of being heard to the assessee and passing ex-parte order without going into the merits of the case. The relevant grounds raised by the assessee i.e., ground Nos. 2 to 4 as under:-

“2. The NFAC erred in not considering the grounds set forth before the Office of Commissioner of Income Tax and passed an order u/s.250 which violates the principles of natural justice.

3. The NFAC failed to apply its mind while looking into the Assessment Order that is passed based on the Best Judgment Assessment.

4. The order passed u/s.250 is based on no logic and technicalities and is invalid in the eyes of the law.”

3. The brief facts are that the assessee has not filed his return of income for the relevant assessment year 2017-18 and accordingly, notice u/s.142(1) of the Act was issued dated 10.03.2018 and assessment was completed u/s.144 of the Act by adding unexplained cash deposits u/s.68 of the Act and taxing the same u/s.115BBE of the Act amounting to Rs.10,75,400/-. The CIT(A)-NFAC dismissed the appeal of assessee by observing that the assessee has not paid the taxes in term of section 249(4)(b) of the Act. But at the time of hearing, it is noted that the assessee as per the processing of return u/s.143(1) of the Act has paid self-assessment tax at Rs.28,321/-.

This processing u/s.143(1) of the Act is dated 14.11.2019. Once the assessee has paid the taxes on returned income, the provisions of section 249(4) of the Act do not bar an assessee from filing of appeal. We noted that the CIT(A)-NFAC has totally erred in not admitting the appeal and dismissing the same as unadmitted and infructuous. Therefore, we set aside the order of CIT(A)-NFAC and remand the matter back to the file of CIT(A) for fresh adjudication on merits.

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

Order pronounced in the open court at the time of hearing on 24th June, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 24th June, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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