

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जगदीश, लेखासदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.79/Chny/2024
निर्धारण वर्ष /Assessment Year: 2009-10

Kanaghrajen Balamurghann,
No.C2, 1st Cross,
North East Extension,
Thillai Nagar – 620001,
Tamil Nadu.

Income Tax Officer,
Vs. Ward-3(2),
Trichy.

[PAN: AAACM-2824-M]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

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

: Shri G. Tarun, Advocate
: Shri R. Clement Ramesh Kumar, CIT

सुनवाई की तारीख/Date of Hearing

: 29.05.2024

घोषणा की तारीख /Date of Pronouncement

: 29.05.2024

आदेश / **ORDER**

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee is against the order of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 31.10.2023 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s.143(3) r.w.s 147 of the Income Tax Act, 1961 (hereinafter "the Act") on 29.12.2017.

: - 2 - :

2. The only effective ground of appeal in assessee's appeal is against the confirmation of unexplained cash deposit of Rs.3,54,61,500/- made by A.O u/s. 69A of the Act.

3. The assessee has filed his return of income on 14.03.2011 showing total income of Rs. 4,00,053/-. Subsequently, the case was reopened u/s. 147 of the Act for the reason that the assessee has deposited amount of Rs.3,74,59,000/- in his saving bank account. The assessee before the A.O has explained the source of cash deposit in his ICICI bank account for the purpose of cheque discounting and to help his family textile business. The A.O has not accepted the explanation and made the addition of Rs.3,54,61,500/- after considering the cash withdrawal of Rs.19,97,500/-. The Ld. CIT(A) has issued notice to the assessee on 02.02.2021, 07.07.2023, 19.09.2023, 20.09.2023 & 28.09.2023, but the assessee has not availed the opportunity of being heard. The Ld. CIT(A) therefore, dismissed the appeal upholding the finding in assessment order.

4. The Ld. Counsel for the assessee has submitted that the Ld. CIT(A) has passed the order ex-parte and therefore, the matter may

: - 3 - :

be restored back to the file of Ld. CIT(A) for deciding the issue afresh after considering the submissions.

5. On the other hand, the Ld. Departmental Representative objected and submitted that four notices have been issued, but the assessee has not complied the same.

6. We have heard the rival submissions, perused the materials available on record. On perusal of the order of the Ld. CIT(A), we find that the order has been passed by Ld. CIT(A) ex-parte for the non-compliance of the assessee. However, the Bench accepts the submission of Ld. AR by observing that the order passed by Ld. CIT(A) ex-parte and keeping in mind the principles of natural justice, the assessee be provided with another opportunity of hearing. We therefore remit the matter back to the file of the Ld. CIT(A) to adjudicate this appeal afresh in accordance with law. The assessee shall appear before the Ld. CIT(A) and furnish complete details for his fresh consideration subject to the condition of payment of Rs.50,000/- towards cost in favour of the State Legal Services Authority at Hon'ble Madras High Court within 30 days from the date of receipt of this order.

: - 4 - :

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

Order pronounced in the open Court on 29th May, 2024.

Sd/-
(महवीर सिंह)
(Mahavir Singh)

उपध्यक्ष / Vice President

चेन्नई/Chennai, दिनांक/Dated: 29th 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