

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.1148/Chny/2024
निर्धारण वर्ष /Assessment Year: 2015-16

Moatta Naickar Gopalakrishna **Income Tax Officer,**
Swamy Chittrarasu, **Vs.** **Ward-3,**
Old No.22, New No.6, **Vellore.**
1st Flr Lalakutty Street, Periamet,
Chennai – 600 014.
[PAN: ARIPC-6133-B]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by

: Shri N.V Narayanan, Advocate for
Shri N.V. Balaji, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri G. Suresh, JCIT

सुनवाई की तारीख/Date of Hearing

: 24.06.2024

घोषणा की तारीख /Date of Pronouncement

: 27.06.2024

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 21.02.2024.

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

“Since the appellant has not filed return of income as well as not paid an amount equal to the amount of advance tax which was payable by it, present appeal is not liable to be admitted. The appeal is infructuous and is, therefore, dismissed.”

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 he has not admitted any advance tax payable, therefore section 249 of the Act is not applicable in his 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 merits.

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 the appeal. Hence, we direct the Ld. CIT(A) to admit the appeal and adjudicate the appeal on merits.

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

Order pronounced on 27th June, 2024.

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

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

चेन्नई/Chennai, दिनांक/Dated: 27th June, 2024.
EDN/-

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