

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' 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.1070/Chny/2024
निर्धारण वर्ष/Assessment Year: 2017-18

M/s.K.M. Specialty Hospital, No.454, RK Shanmugai Salai, K.K. Nagar, Chennai-600 078.	v.	The DCIT, NCC-19(1), Chennai.
[PAN: AAKFK 5996 R]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri H.Yeswanthkumar, CA
प्रत्यर्थी की ओर से /Respondent by	:	Shri P. Sajit Kumar, JCIT
सुनवाईकीतारीख/Date of Hearing	:	24.06.2024
घोषणाकीतारीख /Date of Pronouncement	:	27.06.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee (M/s.K.M. Specialty Hospital) against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short 'the Ld.CIT(A)'), Delhi, dated 16.02.2024 for the Assessment Year (hereinafter in short 'AY') 2017-18.

2. The main grievance of the assessee is against action of the Ld.CIT(A) who passed *ex parte* order without going into the merits of the case. According to Ld AR, the impugned action was in violation of sub-



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section (6) of section 250 of the Income Tax Act, 1961 (hereinafter in short "the Act"). According to the assessee, he has not received notice of hearing due to some glitches in the internet/computer. Therefore, he prays for one more opportunity.

3. Per contra, the Ld.DR pointed out to Para No.5.1 of the CIT(A)'s order and submitted that assessee failed to submit any evidence in respect of *Referral charges*. Therefore, the Ld.CIT(A) had no other alternative, but to confirm the action of the AO; and so, he doesn't want us to give one more innings to the assessee.

4. Having heard both the parties and after perusal of records, we note that the Ld.CIT(A) had directed the assessee to produce evidence regarding its claim of expense of referral charges to the tune of Rs 61,20,905/-. And despite such directions, assessee didn't bother to file any evidence to support its claim of expenditure in respect of referral charges. In the absence of any evidence in respect of referral charges, the Ld.CIT(A) has confirmed the action of the AO. However, according to the assessee, it has not received any such directions from the Ld.CIT(A), may be due to technical glitches. Be that as it may, we are of the considered view that assessee should have been given proper opportunity of hearing. Therefore, for the ends of justice and fair play, we set aside the impugned order of the Ld.CIT(A) and restore the appeal back to the



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file of the Ld.CIT(A) with a direction to decide the appeal on merits after hearing the assessee. The assessee is also directed to be diligent and file relevant documents/written submissions including evidences related to referral charges before the Ld.CIT(A) and the Ld.CIT(A) to decide the issue as per sub-section (6) of sec.250 of the Act.

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

Order pronounced on the 27th 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: 27th 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