

आयकर अपीलिय 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.: 538/CHNY/2024

निर्धारण वर्ष/Assessment Year: 2017-18

Shri Subbunadar Chandra
Sekar,
No.19, SCS Building,
Thambusamy Road,
Kilpauk, Chennai – 600 010.

The Income Tax Officer,
Vs. Corporate Ward-6(3),
Chennai.

PAN: AAEP C 4430C

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Ms. T.V. Muthu Abirami, Advocate
for Shri N. Vijay Kumar, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri AR.V. Sreenivasan, Addl.CIT
सुनवाई की तारीख/Date of Hearing : 02.07.2024
घोषणा की तारीख/Date of Pronouncement : 02.07.2024

आदेश / O R D E R

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/250/2023-24/1059671029 (1) dated 12.01.2024. The assessment was framed by the Income Tax Officer, Corporate Ward 6(3), Chennai for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 26.12.2019.

2. At the outset, the Id.counsel for the assessee Ms.Muthu Abirami, Advocate drew our attention to the following Ground Nos.2 to 5 and stated that the CIT(A)-NFAC disposed off the appeal ex-parte and without providing opportunity of being heard in violation of principles of natural justice:-

- 2. For that the assessment completed u/s.143(3) is bad in law.*
- 3. For that the assessment was completed u/s.143(3) without complying with the statutory requirements of law.*
- 4. For that the Commissioner of Income Tax (Appeals) erred in disposing off the appeal ex-parte.*
- 5. For that the Commissioner of Income Tax (Appeals) failed to appreciate that the appellant had filed request for granting time to file submissions in the e-proceedings tab when the appeal was posted for hearing.*

3. The Id.counsel for the assessee took us through the order of CIT(A)-NFAC, para 5 at page 19 and stated that the CIT(A)-NFAC has noted four opportunities and at the first instance, the assessee sought adjournment and thereafter also assessee requested for granting of time to file submissions in the e-proceedings tab when the appeal was posted for hearing. But the CIT(A)-NFAC noted that on the date of fixation i.e., 25.08.2023, 20.10.2023 and 15.12.2023, none complied. The Id.counsel also drew our attention to the grounds adjudicated by CIT(A)-NFAC in regard to addition of Rs.82,89,500/- added as unexplained investment u/s.69 of the Act, disallowance of Rs.2,75,860/- u/s.14A of the Act and addition of agricultural income of Rs.6,00,000/- and pointed out the findings of

CIT(A)-NFAC which is just a cryptic finding and there is no adjudication actually on merits despite the fact that the order is of 65 pages.

4. When this was pointed out to Id. Senior DR, he stated that despite fixation of this appeal for four times, assessee has not complied and this is a fact recorded by CIT(A)-NFAC in his order at page 19 as pointed out by Id.counsel. Except this, he could not controvert the fact that the order of CIT(A)-NFAC is ex-parte and moreover the finding of CIT(A)-NFAC on each of the ground is cryptic.

5. After hearing rival submissions and going through the facts of the case, without elaborating anything on merits, we feel that the CIT(A)-NFAC disposed off the appeal ex-parte and without providing sufficient opportunity of hearing also. It is also not clear that the assessee has complied with the notices as claimed by assessee. Hence, in the interest of justice, we set aside the order of CIT(A)-NFAC and remand the matter back to his file for fresh adjudication after allowing reasonable opportunity of being heard to the assessee. This setting aside is subject to a cost of Rs.5,000/- (Rupees Five Thousand only) to be paid to the Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras by the assessee within a

month's time from the date of receipt of this order. The assessee will pay this cost and produce the receipt before the CIT(A). In term of the above, the order of the CIT(A)-NFAC is set aside and matter remanded back to his file for fresh adjudication after allowing reasonable opportunity of being heard to the assessee.

6. 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 2nd July, 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 2nd July, 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.