

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.1124/Chny/2024
निर्धारण वर्ष /Assessment Year: 2017-18

Quality Broilers,
No.11, Block R1 Tower Centre,
Gandhi Nagar, Kattankulathur,
Kancheepuram Dist,
Tamil Nadu-603203.

[PAN: AAAFQ 4385N]

(अपीलार्थी/**Appellant**)

The Income Tax Officer,
Non Corp Ward 22(3),
Tambaram.

(प्रत्यर्थी/**Respondent**)

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

: Shri S.P.Chidambaram, Advocate
: Shri G.Suresh, JCIT

सुनवाई की तारीख/Date of Hearing

: 24.06.2024

घोषणा की तारीख /Date of Pronouncement

: 12.07.2024

आदेश / **ORDER**

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee for Assessment Year (AY) 2017-18 arises out of the order of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 24.02.2024 in the matter of assessment framed by Ld. Assessing Officer [A.O] u/s. 144 of the Act on 16.09.2023.

: - 2 - :

2. The only effective ground in this appeal of assessee is against the confirming of 8% of bank deposits as income by the Ld. CIT(A).

3. The brief facts of the case are that the assessee engaged in the business of selling of poultry products. The assessee has not filed its return of income and has also not responded to the notices issued u/s. 142(1) of the Act for filing the return of income. The A.O called for bank statement and on the basis of bank statement, estimated 8% of the total deposits as income. The A.O has also made addition of cash deposit into bank SBN deposits during demonetization period of Rs.32,85,500/-. The assessment order was passed ex-parte u/s. 144 of the Act.

4. During the appeal, the assessee has not made any effective submission before the Ld. CIT(A) and therefore, the Ld. CIT(A) has adjudicated the case as under:

“On consideration of the logic applied by the AO, it stands to reason that the AO is directed to take note of the total credits prior to the date of demonetization period and apply the presumptive rate of 8% on the same and treat the same as source for the cash deposits of demonetized currency to the extent such profits are sufficient to account for the cash deposits and treat the excess if any as unexplained money deposited into the bank account. The addition for the remaining period after the cutoff date at the presumptive rate

: - 3 - :

needs to be calculated and aggregated with the pre demonetized presumptive income. To this extent, the appellant is entitled to relief.”

5. We have heard both the parties and gone through the orders of the authorities below. The Ld. A.R has contended that the Ld. CIT(A) has confirmed the presumptive tax @ 8% without considering the fact that in the business of trading of poultry products, the net margin is in the range of 1% to 2%. The Ld. A.R has also contended that the Ld. CIT(A) has adjudicated the appeal without going into the facts and figure which is not as per Section 251(1)(a) of the Act. We agree with the submissions of Ld. A.R that property opportunity of hearing was not given. We are of the opinion that keeping in view the principles of natural justice, the assessee be provided with another opportunity of hearing to substantiate his case before the Ld. CIT(A). Accordingly, we set aside the order passed by the Ld. CIT(A) and remit the matter back to the file of the Ld. CIT(A) to adjudicate this appeal afresh in accordance with law, after giving reasonable opportunity to the assessee. We also direct the Assessee to appear before the Ld. CIT(A) on the date of hearing without fail. In view of the above, the appeal filed by the assessee is allowed for statistical purposes.

: - 4 - :

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

Order pronounced on 12th July, 2024.

Sd/-

(यस यस विश्वनेत्र रवि)

(SS Viswanethra Ravi)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 12th July, 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
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF