

आयकर अपीलिय 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.1105/Chny/2024
निर्धारण वर्ष/Assessment Year: 2010-11

Sengottaiyan Kavitha, 5,65, Nochi Patty, Kalyani Post, Namakkal-637 018.	v.	The ITO, Ward-2, Namakkal.
[PAN: BOMPK 3739 R]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri Kathir, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Shri P. Sajit Kumar, JCIT
सुनवाईकीतारीख/Date of Hearing	:	25.06.2024
घोषणाकीतारीख /Date of Pronouncement	:	10.07.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 27.02.2024 for the Assessment Year (hereinafter in short "AY") 2010-11.

2. The main grievance of the assessee is that the Ld.CIT(A) has passed an *ex parte* order since the assessee didn't respond to his 'four'



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notices; and it was also pointed out by the Ld.AR that Assessment Order in this case was also passed *ex parte*, qua assessee. Therefore, he pleads by relying on the decision of the Hon'ble Supreme Court in the case of TIN Box Company v. CIT reported in [2001] 249 ITR 216 (SC) that since assessee didn't get proper opportunity before the AO, the assessment may be restored back to the file of the AO for de novo assessment.

3. Per contra, the Ld.DR opposed the request of the assessee.

4. We have heard both the parties and perused the material available on record. We note that the impugned order of the Ld.CIT(A) is an *ex parte* order and that also without going into the merits of grounds of appeal raised by the assessee. Likewise, the Assessment Order has also been passed on 27.11.2018 u/s.144 r.w.s.147 of the Income Tax Act, 1961 (hereinafter in short "the Act") meaning best judgment assessment was framed by the AO. Thus, it is noted that the Assessment Order as well as impugned order are *ex parte* orders. From perusal of Form 35 & Form 36, we note that the assessee is a Physics Lecturer in Pavai Engineering College near Namakkal; and that she was on Medical Leave during assessment proceedings. The assessee had gynec related problems, after the delivery of a child on 02.10.2017 and was consequently on Medical Leave from college on loss of pay; and she suffered abortion on 19.01.2019, and therefore, due to poor health,



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assessee couldn't appear before the AO which resulted in AO passing the best judgment assessment, and the Ld.CIT(A), noticing no response from assessee, has dismissed the appeal, without going into the merits of the appeal. The Ld.AR brought to our notice that notices from Office of Ld.CIT(A) were sent on wrong e-mail ID, which resulted in assessee not knowing about such notices. Be that as it may, since, we find that the Assessment Order has been passed by the AO without hearing the assessee due to reasons beyond the control of the assessee, we relying on the decision of the Hon'ble Supreme Court in the case of TIN Box Company (supra), set aside the impugned order of the Ld.CIT(A) and restore the assessment back to the file of the AO for de novo assessment. The Ld.AR undertakes to diligently appear /present the case/written submissions/documents to substantiate the case of the assessee and the AO to pass de novo Assessment Order in accordance to law.

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

Order pronounced on the 10th day of July, 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: 10th July, 2024.
TLN, Sr.PS



ITA No.1105/Chny/2024 (AY 2010-11)
Sengottaiyan Kavitha

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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