

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.1249/Chny/2024
निर्धारण वर्ष /Assessment Year: 2015-16

Malaiyalagu Chinnakombiah,
No.3/44, Lakshmi Marketing,
Inammaniachi Kovilpatti, Tuticorin,
Tamil Nadu-628502

[PAN: AHWPC 6728Q]

(अपीलार्थी/Appellant)

The Income Tax Officer,
Vs. Ward 1, Tuticorin.

(प्रत्यर्थी/Respondent)

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

: Shri Abhishek Murali, CA
: Shri G.Suresh, JCIT

सुनवाई की तारीख/Date of Hearing

: 24.06.2024

घोषणा की तारीख /Date of Pronouncement

: 19.07.2024

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee for Assessment Year (AY) 2015-16 arises out of the order of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 15.02.2024 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 147 r.w.s 144 r.w.s 144B of the Income Tax Act, 1961 (hereinafter "the Act") on 18.09.2021.

2. The assessee is an individual filed his return of income for the A.Y 2015-16 showing total income of Rs. 3,02,557/- and assessment

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was completed u/s. 143(3) of the Act. Subsequently, the A.O has reopened the assessment on the ground that there is cash deposit in the bank account of the assessee to the tune of Rs. 3,00,17,265/- as against reported sale of Rs.2,61,28,975/- and therefore, the escapement income of Rs. 38,88,290/- being difference of sale reported and cash deposit in the bank account. The A.O in the assessment order has made the addition @ 8% of the cash deposit u/s. 44AD of the Act and passed ex-parte order u/s. 144 of the Act. The Ld. CIT(A) has also passed ex-parte order and confirmed the addition.

3. The Ld. A.R has contended that sufficient opportunity was not provided to the assessee either before A.O or before Ld. CIT(A) and both the orders have been passed ex-parte and therefore the case may be remitted back to the A.O for fresh consideration.

4. The Ld. D.R relied on the orders of the authorities below and requested to dismiss the appeal.

5. We have heard the rival submissions, and perused the materials available on record. On perusal of the orders of A.O as well as Ld. CIT(A), we find that the orders have been passed ex-parte for the non-compliance by the assessee. The Ld. A.R has submitted that the Ld.

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CIT(A) has not decided the issue on merits, therefore the case may be remanded back to the A.O for adjudication on merits. 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 A.O. Accordingly, we set aside the orders passed by the A.O and the Ld. CIT(A) and remit the matter back to the file of the A.O 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 A.O on the date of hearing without fail and furnish complete details for his fresh consideration. In view of the above, the appeal filed by the assessee is allowed for statistical purposes.

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

Order pronounced on 19th July, 2024.

Sd/-

(यस यस विश्वनेत्र रवि)

(SS Viswanethra Ravi)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 19th July, 2024.

EDN/-

Sd/-

(जगदीश)

(Jagadish)

लेखा सदस्य /Accountant Member

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आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF