

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI**

श्री एस एस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI S.S. VISWANETHRA RAVI, HON'BLE JUDICIAL MEMBER
AND SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 1426/Chny/2024

निर्धारण वर्ष / Assessment Year: 2013-14

Venkatchalam Dhandapani,
C/o Dr. Rajesh,
Flat No. 17/6A, Shanmuganar Salai,
Flat No.3, First Floor, Gill Nagar
(Near Sriram Auto Mechanic Shop),
Choolaimedu, Chennai – 600 094.

[PAN: AKHPD-9620-L]

(अपीलार्थी/Appellant)

Income Tax Officer,
v. Ward -2(4),
Tiruppur.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. Girish Kumar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. Aron Prasad, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 22.07.2024

घोषणा की तारीख/Date of Pronouncement

: 24.07.2024

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal by the assessee is filed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2013-14, vide order dated 26.04.2024.

2. The brief facts are that, the assessee is an individual and in earlier years deriving income from house property, agricultural income and income from other sources. The assessee has not filed his return of income for the assessment year 2013-14 as the income was below taxable/nil. The case was selected for scrutiny and accordingly, notice u/s. 148 of the Act was issued and served on the assessee. However, according to the Assessing Officer, there was no response on the part of the assessee and hence the AO framed the best judgment assessment order u/s. 147 r.w.s 144 of the Act by adding cash deposits made to bank by the assessee during the AY 2013-14 of Rs.48,91,500/- as unexplained money u/s. 69A of the Act.

3. Aggrieved by the aforesaid action of the Assessing Officer, the assessee filed an appeal before the Id. CIT(A), which was decided on the same reasons that despite of being given many opportunities, assessee did not participate. So, he was pleased to dismiss it. Aggrieved by the impugned order of the Id. CIT(A), the assessee has preferred this appeal before us.

4. The Ld. Counsel for the assessee, stated that the assessee is an individual deriving income from house property, agricultural income and income from other sources. The assessee is an agriculturalist hailing from small town and has saved his past years earnings in cash and deposited the same into bank. Hence, according to him, the additions made u/s. 69A of the Act, is erroneous and hence the same needs to be deleted. In the alternate, Id. AR pleads that since the assessee did not get proper opportunity before the Assessing Officer, he requested to remand back the issue to the file of the Assessing Officer for denovo consideration.

5. Per contra, the Id. DR, supporting the action of Id. CIT(A) contended that assessee has been given enough opportunities and one more innings should not be given to assessee.

6. We have heard the rival contentions and gone through the facts and circumstances of the case. We noted that assessee is an individual and due to non-participation before the Assessing Officer/CIT(A) both authorities have passed orders. The plea of the assessee was that the non-appearance/participation was not deliberate and the Id. AR

undertakes to appear before the authorities, provided an opportunity is given. Since, ex parte orders have been passed by both authorities we deem it fit to restore the assessment back to the file of the Assessing Officer by relying on the decision of the Hon'ble Supreme Court in the case of Tin Box Company vs CIT, [2001] 249 ITR 216 (SC) and direct the Assessing Officer to denovo frame assessment in accordance to law, after providing reasonable opportunity to the assessee. Needless to say, assessee to be diligent and file written submissions and relevant documents if advised so.

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

Order pronounced in the court on 24th July,2024 at Chennai.

Sd/-
(एस एस विश्वनेत्र रवि)
(S.S. VISWANETHRA RAVI)
न्यायिक सदस्य/**Judicial Member**

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखा सदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 24th July,2024

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त/CIT - Coimbatore
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF