

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI
श्री एसएस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस.आर. रगुनाथा, लेखा सदस्य के समक्ष
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri S.R. Raghunatha, Accountant Member

आयकर अपील सं./I.T.A. No.1536/Chny/2024
निर्धारण वर्ष/Assessment Year: 2017-18

Rajendran Malathi,
447/230, R-5 T.V.K. Nagar,
Salem Bye-pass Road, Harur,
Dharmapuri 636 903.

Vs. The Assistant Commissioner of
Income Tax,
Circle 1,
Hosur.

[PAN: ALMPM7027J]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri T.S. Lakshmi Venkatraman, F.C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri Aroon 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.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order dated 28.03.2024 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi for the assessment year 2017-18.

2. The assessee raised 5 grounds of appeal, amongst which only issue emanates for our consideration as to whether the Id. CIT(A) is

justified in confirming the order of the Assessing Officer without there being proper opportunity to the assessee.

3. At the outset, we note that the assessment was completed under section 144 of the Income Tax Act, 1961 ["Act" in short] determining total income of the assessee at ₹.1,81,43,300/- as against income of ₹.17,33,800/-, inter alia, making addition on account of unexplained cash deposited during the period of demonetization treating the same as unexplained income of the assessee under section 69A of the Act. On perusal of the assessment order at page 5, we note that the Assessing Officer held that the assessee neither complied with the show cause notice issued on 08.12.2019 nor furnished any information or explanation, the Assessing Officer proceeded to complete the assessment according to his best judgement in the absence of any explanation from the assessee. Likewise, on perusal of the order of the Id. CIT(A) at para 6.2 page No. 6, clearly shows that the assessee did not file any submissions/documentary evidences before the Id. CIT(A). Therefore, the Id. CIT(A) confirmed the order of the Assessing Officer.

4. The Id. AR Shri T.S. Lakshmi Venkatraman submits that the assessee did not furnish any evidence during the course of

assessment proceedings since he was under the impression that the assessee being proprietor of M/s. Sivaraman Indian Gas Service and it comes under the exempted category. The Id. AR requested to remand the matter to the file of the Assessing Officer as the assessee is ready to prosecute his case if the Tribunal afford an opportunity.

5. The Id. DR Shri Aroon Prasad, Addl. CIT reported objection that the Assessing Officer and the Id. CIT(A) given many opportunities to the assessee, as the assessee failed to utilize the same.

6. As discussed above, we note from the assessment order as well as impugned order, it is established that there was no opportunity for the assessee in prosecuting his case, but, however, on the undertaken given by the Id. AR that the assessee is ready to prosecute his case before the Assessing Officer without fail, we deem it proper in the interest of justice to remand the matter back to the file of the Assessing Officer for his consideration afresh subject to the condition of payment of ₹.10,000/- towards cost in favour of the State Legal Aid Authority, Hon'ble Madras High Court within 30 days from the date of receipt of this order and produce the receipt before the Assessing Officer. The assessee is at liberty to file evidence in support of his claim and the

Assessing Officer shall conduct the assessment proceedings *de novo*.

Thus, grounds Nos. 1 to 5 are allowed for statistical purposes.

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

Order pronounced on 24th July, 2024 at Chennai.

Sd/-
(S.R. RAGHUNATHA)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 24.07.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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