

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER
आयकर अपील सं./ITA Nos.166/Chny/2024
निर्धारण वर्ष /Assessment Years: 2017-18

Anand Annamalai,
Kilakkukadu Chettikulam,
Naduvalur, Gangavalli Taluk,
Selam, Tamil Nadu-636102.
[PAN: AFAPA1954N]

The Income Tax Officer,
Ward-1(6).
Salem

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri Kathir, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri P.Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 03.07.2024

घोषणा की तारीख /Date of Pronouncement

: 19.07.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2023-24/1058564205(1) dated 07.12.2023 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment years 2017-18. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 07.12.2023 passed by NFAC, Delhi.

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2.0 The assessee is primarily contesting the order of the first appellate authority supra whereby penalty u/s 270A dated 27.09.2022 culminating into demand of Rs. 1,68,405/- levied by the AO is stands sustained.

3.0 As for factual matrix enumerated by the AO in his order dated 27/9/2022, the department had information that the assessee had not filed its return of income for AY 2017-18 in spite of having entered into immovable property transaction. Proceedings u/s.148 were initiated in response to which the assessee declared income of Rs.12,16,470/-. Order u/s 147 r.w.s. 144B was passed on 30.03.2022 determining total income at Rs.23,06,470/- . Through the said order penalty u/s 270A was initiated. The assessee did not seek any immunity from penalty from u/s 270AA(2). The AO issued show cause notices to the assessee which remain non-complied Considering Non-compliance by the assessee to his penalty notices, the AO proceeded to levy the impugned penalty. While levying penalty, the AO noted that “ provisions of 270A are attracted in the assessee’s case as the income determined u/s143(3) is greater than the one determined u/s143(1).

4.0 At the outset the Ld.AR argued that the lower authorities had not considered its arguments and submissions and that the matter deserves to be re-adjudicated. Thus it was submitted that the Ld.AO has failed to

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consider its submissions which were filed electronically on 27.09.2022. The assessee claimed non-consideration of its submissions by the Ld.CIT(A) as well. In support of its contentions the assessee has filed an e-proceedings response acknowledgement which is placed in paper book filed during present proceedings. The assessee has argued that the Ld.CIT(A) has also sustained order of the AO holding that no reply was filed by it, whereas the same was filed. It has also submitted evidence placed in paper book indicating filing of submissions, albeit, after the due date of compliance, but before passing of orders.

5.0 The Ld.DR contested the arguments of the Ld.AR and relied upon the order of authorities below:

6.0 We have heard rival submission in the light of facts of the case and material brought on records. Whereas the order of the AO shows penalty that an ex-parte was passed, the assessee has demonstrated that it did file its submissions before the AO. The order of the Ld.CIT(A) shows that the order of AO has been confirmed on account of non-compliance by the assessee. We therefore of the view that the assessee deserves to be given a chance to submit its case before the AO for a proper appreciation of the facts of its case. Accordingly, the order of the Ld.CIT(A) and the AO is set aside. The AO is directed to readjudicate the matter after giving an opportunity of being heard to the assessee. The assessee on its part shall

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comply to the notices of the AO. The grounds of appeal raised by the assessee are therefore partly allowed.

7.0 In the result, the appeal is partly allowed for statistical purposes.

Order pronounced on 19th July, 2024 at Chennai.

Sd/-
(एबी टी. वर्की)

(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

Sd/-
(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

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

KB/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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