

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.1099/Chny/2024
निर्धारण वर्ष/Assessment Year: 2017-18

Shri Abdulmajeed Rafi, No.4-A, Swiz Garden, K.R. Koil Stop, Podanur Road, Coimbatore-641 023.	v.	The ITO, NCW-4(3), Coimbatore.
[PAN: AIOPR 7853 C]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri Anandd Babunath, FCA
प्रत्यर्थी की ओर से /Respondent by	:	Shri P. Sajit Kumar, JCIT
सुनवाईकीतारीख/Date of Hearing	:	25.06.2024
घोषणाकीतारीख /Date of Pronouncement	:	26.07.2024

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 30.12.2023 for the Assessment Year (hereinafter in short "AY") 2017-18.

2. At the outset, the Ld.AR of the assessee submitted that the impugned order of the Ld.CIT(A) has been passed without hearing the assessee. According to the Ld.AR, due to technical glitches in the internet/computer, assessee didn't receive any communication from the



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Ld.CIT(A) and therefore, couldn't respond to the same which resulted in the Ld.CIT(A) passing the ex-parte order. Therefore, he prays that one more opportunity be granted to the assessee.

3. Per contra, the Ld.DR submitted that the assessee didn't participate in the assessment proceedings which led the AO to pass best judgment assessment u/s.144 of the Income Tax Act, 1961 (hereinafter in short 'the Act') as well as before the Ld.CIT(A), which led him to pass the impugned order disposing of the appeal on merits and therefore, he doesn't want us to give one more innings to the assessee.

4. Aggrieved, the assessee is in appeal before this Tribunal.

5. We have heard both the parties and perused the material available on record. We note that the Assessment Order has been passed on 15.12.2019 u/s.144 of the Act which is a best judgment assessment without hearing the assessee. The Ld.CIT(A) also taking note of the fact that the assessee didn't respond to his notices on various occasions and failed to file written submissions or relevant documents to substantiate the grounds of appeal raised before him, has disposed off the appeal with the documents available with him. The main plea of the assessee is that he didn't receive any notices. In such a scenario, the allegation of the Ld.CIT(A) that the assessee didn't respond to his notices fails and therefore, in the interest of natural justice and fair play, we are inclined to



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grant one more opportunity to the assessee. Therefore, we set aside the impugned order of the Ld.CIT(A) and taking note that the assessment has been passed u/s.144 of the Act (ex parte order/best judgment assessment), relying on the decision of the Hon'ble Supreme Court in the case of TIN Box Co. v. CIT reported in [2001] 249 ITR 216 (SC), is inclined to restore the assessment back to the file of the AO, since during the course of assessment proceedings, assessee didn't get proper opportunity before the AO. Therefore, we remit the assessment back to the file of the AO with a direction to de novo frame assessment after hearing the assessee, and the assessee is at liberty to raise legal issues as well as additions/disallowance on merits; and the assessee is directed to be diligent and file written submissions/relevant documents before the AO and the AO to frame assessment in accordance to law after hearing the assessee.

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

Order pronounced on the 26th 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: 26th July, 2024.
TLN, Sr.PS



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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