

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' 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.1540/Chny/2024
निर्धारण वर्ष /Assessment Years: 2013-14

Sennimalaigounder Sivasamy,
SF No.800/1B2, Ultra Tower,
Second Floor, Kovai Thottam Road,
Nehru Nagar West,
Coimbatore-641048
[PAN: ALMPS1501K]

Asst. Commissioner of Income Tax,
Non-Corporate Circle-2,
Coimbatore

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri Suraj Nahar, C.A.

प्रत्यर्थी की ओर से /Respondent by

: Shri G.Suresh, JCIT

सुनवाई की तारीख/Date of Hearing

: 22.07.2024

घोषणा की तारीख /Date of Pronouncement

: 31.07.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2023-24/1064809738(1) dated 10.05.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment years 2013-14. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 10.05.2024 passed by NFAC, Delhi by raising grounds of appeal including an additional ground of appeal.

2.0 At the outset, the Ld.AR of the assessee pointed out that the impugned order of the Ld.CIT(A) is an ex parte order without hearing the assessee; and has only reiterated the AO's action. According to the Ld.AR, the assessee was not given sufficient opportunity from the Office of the Ld.CIT(A) to provide the required details. Therefore, he pleaded for one more opportunity before the Ld.CIT(A).

3.0 Per contra, the Ld.DR doesn't want us to give one more innings to the assessee. The Ld.DR alternatively contended that a cost should be imposed upon the assessee for his non-compliance in submission of required details before the Ld.CIT(A).

4.0 We have heard both the parties and perused the material available on record. We note that the Ld.CIT(A) has noted in para 2 and 2.1 his order that the assessee did not provide required details and explanation in support of grounds of appeal raised and had proceeded to decide the appeal on the basis of material available on records.

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According to the assessee, it was not given sufficient time to furnish the detail. Be that as it may, it should be borne in mind that if an assessee is aggrieved by the Assessment Order, he has statutory right of appeal before the First Appellate Authority and such a right would be futile, if the First Appellate Authority doesn't give proper opportunity of hearing to the assessee. However, at the same time an assessee cannot be allowed to subvert legal procedures by non-compliance and still take the benefit a legal remedy. Considering the overall conduct of the assessee before the Ld.CIT(A) an element of willful non-compliance cannot be denied. We are therefore of the view that to do substantial justice one more opportunity be provided to the assessee to represent the true and clear facts before the CIT(A) and hence, we set aside the orders of the CIT(A) and remand the matter back to the file of the AO with a cost of Rs.10,000/- to be paid to the Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras on or before 30.08.2024. The assessee will pay this cost and produce the receipt before the AO. The assessee is directed to file written submissions/relevant documents to substantiate the grounds of appeal and the Ld.CIT(A) to pass order in accordance to law after hearing the assessee.

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

Order pronounced on 31st 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: 31st July, 2024.

KB/-

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