

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष  
BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND  
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.54/Chny/2024  
निर्धारण वर्ष /Assessment Year: 2017-18

Shanmugam Ayyappan,  
TS No.5643-5644, South 4<sup>th</sup> Street, Vs. The Income Tax Officer ,  
Pudukkottai – 622 001. Ward-1,  
Tamil Nadu. Pudukkottai.  
[PAN: AEOPA 6661B]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by : Shri I. Dinesh, Advocate  
प्रत्यर्थी की ओर से /Respondent by : Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing : 11.07.2024  
घोषणा की तारीख /Date of Pronouncement : 31.07.2024

आदेश / O R D E R

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee for Assessment Year (AY) 2017-18 arises out of the order of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 08.12.2023.

2. The only effective ground of appeal in this case is against the challenging validity of assessment order and making addition of cash

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deposit of Rs. 36,12,200/- u/s. 69A of the Income Tax Act, 1961 (hereinafter "the Act") during the demonetization period.

3. The brief facts of the case are that the assessee is an individual and derives income from Shrimp farming, retail trade in auto spare parts and minor civil contracts. The assessee has not filed his return of income by due date and therefore, notice u/s. 142(1) of the Act on 19.01.2018 to file return of income on or before 18.02.2018. However, the assessee has failed to file the return of income within the time given as per the said notice. The assessee has filed return of income in paper form on 17.07.2018. The A.O invoking the amended provisions of Section 139(4) by Finance Act, 2016 w.e.f 01.04.2017 treated the return non-est and invalid. The A.O thereafter, issued notice u/s. 143(2) of the Act on 30.09.2019 and passed assessment u/s. 144 of the Act making addition on cash deposit in bank account during demonetization period at Rs. 23,66,720/-. The assessee before us has challenged the validity of assessment order as Section 143(2) of the Act notice was issued on invalid return. The assessee has also submitted that as CBDT letter dated 29.11.2019 all Assessing Officers were required to drop proceedings u/s. 143(2) of the Act in all such cases whether section 143(2) of the Act notices were issued on invalid return.

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4. The Ld. AR has submitted a copy of CBDT instructions dated 29.11.2019.

5. The Ld. DR, Shri P. Sajit Kumar, JCIT, also agreed that as per CBDT Guidelines vide F.No.225/333/2019/ITA-II dated 29.11.2019, the Assessing Officers were required to drop the proceedings u/s. 143(2) of the Act in such cases and reopen the same by issuing of notice u/s. 148 of the Act.

6. We have heard the rival contentions, and perused the materials available on record. The assessee has filed return of income on 17.07.2018 which was treated as non-est and invalid by the A.O. The CBDT vide F.No.225/333/ITA-II dated 29.11.2019 has issued guidelines as under:

*"2. It has been brought to the notice of Board under section 143(2) of the Income-tax Act, 1961 ('Act') were generated in respect of certain invalid returns of the assessee filed for the Assessment Year 2017-18 through CASS Cycle 2018. As the scrutiny of such returns will pose a challenge for the A.O and is bad in law, I am directed to state that Assessing Officers shall drop the proceedings u/s. 143(2) of the Act in such cases and reopen the same by issue of notice under section 148 of the Act."*

7. As the assessment order was passed in violation of CBDT Guidelines, supra, the assessment order passed is quashed.

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However, liberty is granted to A.O to reopen the case in case it is permissible under law.

8. In the result, the appeal filed by the assessee is allowed.

*Order pronounced on 31<sup>st</sup> July, 2024.*

**Sd/-**  
(एबी टी. वर्की)  
(**ABY. T. Varkey**)

**न्यायिक सदस्य / Judicial Member**

चेन्नई/Chennai, दिनांक/Dated: 31<sup>st</sup> July, 2024.

EDN/-

**Sd/-**  
(जगदीश)  
(**Jagadish**)

**लेखा सदस्य / Accountant Member**

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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