

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.1623/Chny/2024
निर्धारण वर्ष /Assessment Years: 2017-18

Nagarathinam Ramesh,
33/8, Pudupalayam Street,
Pillayarpalayam,
Kanchipuram-631501
[PAN: AOMPR7356C]

Income Tax Officer,
Ward-2,
Kanchipuram

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri Tarun, Adv. For S. Sridhar,
Advocate

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

: 09.08.2024

आदेश / O R D E R

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2023-24/1058077295(1) dated 20.11.2023 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 20.11.2023 passed by NFAC, Delhi.

2.0 It is noted that there is a delay of '130' days in filing of this appeal, for which, assessee has filed Condonation petition. It has been explained that the delay is attributable to Covid-19 scenario as well as

unfortunate demise of assessee's Chartered Accountant. Having perused the same, we are satisfied that there is reasonable cause for delay. So, we condone the delay and proceed to adjudicate the appeal.

3.0 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 offered adequate opportunity from the the Office of the Ld.CIT(A), which prevented the assessee from effectively presenting its case. Therefore, he pleaded for one more opportunity before the Ld.CIT(A).

4.0 Per contra, the Ld.DR doesn't want us to give one more innings to the assessee.

5.0 We have heard both the parties and perused the material available on record. We note that the Ld.CIT(A) has passed an ex parte order qua assessee. According to the assessee, it was not offered adequate opportunity to defend its case. The order of Ld.CIT(A) shows that he also has not passed a speaking order and merely delved upon assumptions. 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

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assesse. Therefore, for the ends of justice and fair play, we are inclined to give one more opportunity to the assessee, and therefore, set-aside the impugned order of Ld CIT(A) and restore the appeal back to his file; and 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.

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

Order pronounced on 9th August, 2024 at Chennai.

Sd/-
(एबी टी. वर्की)
(ABY T VARKEY)

न्यायिक सदस्य / **Judicial Member**

चेन्नई/Chennai, दिनांक/Dated: 9th August, 2024.

KB/-

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)

लेखा सदस्य / **Accountant Member**

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

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