

आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकरअपील सं./ ITA No.860/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-2018)

Nivetha,
No.49/1B,
Vadivel Mudaliyar Street,
Ambattur,
Chennai 600 053.

Vs. The Income Tax Officer,
Non Corporate Ward 7(1)
Chennai 600 034.

[PAN: AUHPN 5801F]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: None

प्रत्यर्थी की ओर से /Respondent by

: Ms. Gouthami Manivasagam, IRS, JCIT

सुनवाई की तारीख/Date of Hearing

: 13.08.2024

घोषणा की तारीख /Date of Pronouncement

: 14.08.2024

आदेश / ORDER

PER MANU KUMAR GIRI (Judicial Member)

This appeal filed by the assessee is directed against the order of the Ld. Commissioner of Income Tax(Appeals)(NFAC) Delhi [CIT(A)] dated 31.01.2024 for Assessment Year 2017-18.

2. Brief facts of the case are that the assessee is an individual and engaged in the business of textile business in the name of M/s Jai Sri Krishna Textiles. The assessee filed his return of income for the FY 2016-17 relevant to AY 2017-

18, declaring total income of Rs. 4,85,060/-. The case was selected for scrutiny under CASS and notice u/s 143(2) and notice u/s 142(1) of the Act were issued. Accordingly, assessment u/s 143(3) of the Income Tax Act was completed at total income of Rs. 41,24,060/- after making an addition of Rs. 36,39,000/- on account of unexplained investment u/s 69A r.w.s 115BBE of the Act. Aggrieved, assessee preferred an appeal before the Id. CIT(A). Ld. CIT(A) issued various notices u/s.250 of the Act to the appellant through ITBA from time to time. Last notice was issued on 12.01.2024 requiring compliance on 17.1.2024. But no compliance was made. During the appeal proceedings, written Submission was not uploaded till the conclusion of the appeal proceedings and, therefore, the Statement of Facts filed by the appellant is taken as Written Submission. The Ld. CIT (A) on perusal of records, noticed that during the course of appellate proceedings, appellant had not filed or uploaded any response/written submissions in spite of six notices were issued to the appellant. The notices u/s 250 the Act was issued to the appellant on 17.02.2021 requiring compliance on 04.03.2021, on 29.09.2023 requiring compliance on 09.10.2023, on 03.11.2023 requiring compliance on 09.11.2023, on 15.11.2023 requiring compliance on 20.11.2023, and on 18.12.2023 requiring compliance on 02.01.2024, However, no reply/ submissions were uploaded in this office. The case was again fixed for hearing by issuing notice u/s 250 on 12.01.2024 requiring compliance on 17.01.2024 and again there is no response. In view of the above facts, elaborate discussion/analysis and

conclusion of the A.O. in the Assessment order and no documentary evidence received from the appellant during the assessment proceedings as well as appellate proceedings to rebut the finding of the AO, it is clear that the action of the appellant is nothing but is premeditated contumacious conduct, surreptitiously done for specific reasons for bringing unaccounted money of the appellant into the banking channel. This is clearly a tax evasion which is established from the above analysed facts and surrounding circumstances, human conduct and preponderance of probability. Thus, the Id. CIT(A) confirmed the action of the Id. Assessing Officer by adding a sum of Rs.36,39,000/-. Aggrieved, assessee is in appeal before us.

3. Before us, none appeared for the assessee. The Id.DR stated that the assessee is habitual defaulter in appearing before the appellate authority hence no lenient view is to be taken in this case and prayed for dismissal of appeal.

4. Though we concur with the submissions of Ld. Sr. DR however, keeping in mind the principle of natural justice and grant another opportunity of hearing to the assessee. Accordingly, the impugned order is set aside and the appeal is restored back to the file of Ld. CIT(A) for fresh adjudication on merits after affording proper opportunity of hearing to the assessee. The assessee is directed to substantiate its case forthwith without any fail, failing which Ld. CIT(A) shall be at liberty to proceed with the disposal of the appeal on merits.

5. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 14th August, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई Chennai:

दिनांक Dated :14-08-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF