

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.:1800/CHNY/2024

निर्धारण वर्ष/Assessment Year:2017-18

**Shri Kundarapalli Narashiman  
Natarajan,**  
No.144, Madras Road New Pet,  
Krishnagiri – 635 001.

**The Income Tax Officer,**  
Vs. Ward-1,  
Krishnagiri.

**PAN: AEMPN 8708C**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri T.S. Lakshmi Venkatraman, F.C.A

प्रत्यर्थी की ओर से/Respondent by

: Shri R.Clement Ramesh Kumar,CIT

सुनवाई की तारीख/Date of Hearing

: 21.08.2024

घोषणा की तारीख/Date of Pronouncement

: 21.08.2024

**आदेश /O R D E R**

**PER BENCH:**

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeal), National Faceless Appeal Centre, Delhi in Order No.ITBA/NFAC/S/250/2024-25/1064419040 (1) dated 29.04.2024. The assessment was framed by the Assessing Officer, National Faceless Assessment Centre, Delhi for the assessment year 2017-18 u/s.147 r.w.s. 144 r.w.s 144B of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 24.03.2022.

2. The common issue in this appeal of assessee is as regards to estimating income by applying profit rate of 8% by treating the deposits made as turnover for an amount of Rs.13,20,33,640/-and also addition made by AO of cash deposits made during demonetization period in specified bank notes amounting to Rs.1,65,28,590/- added u/s.69A r.w.s. 115BBE of the Act without providing reasonable opportunity of being heard to the assessee and also the order of CIT(A)-NFAC is dismissal for default on the part of the assessee and no adjudication on merits.

3. At the outset, the Id.AR for the assessee stated that the assessment is 144 assessment i.e., best judgment assessment and assessee was not provided reasonable opportunity of being heard and moreover, the CIT(A)-NFAC dismissed the appeal for default without speaking on merits. The Id.AR took us through the order of CIT(A)-NFAC and read out para 3.1 & 3.2, wherein the CIT(A)-NFAC simpliciter dismissed the appeal in default. When these facts were confronted to Id.CIT-DR, he stated that the CIT(A)-NFAC has provided eight opportunities as noted in para 3 and the AO has also provided five opportunities as noted by the AO. Both the parties below, according to Id.CIT-DR, are forced to pass ex-parte orders as nothing is coming out from the assessee. But, he could not controvert that the CIT(A)-NFAC has not passed the order on merits.

4. We have heard rival contentions and gone through facts and circumstances of the case. We noted that the order of CIT(A)-NFAC is ex-parte and dismissed for default purely and no adjudication on merits. We also noted that the CIT(A)-NFAC has given his finding in para 3.2 as under:-

*“3.2 But the appellant has ignored even the last opportunity provided to the appellant to substantiate the appeal under reference. During the assessment proceedings, the appellant did not respond to the notices and questionnaires issued by ld.AO. Ultimately, ld.AO was compelled to pass the assessment order u/s.147 r.w.s. 144 read with section 144B read with section 144B of the Income Tax Act, 1961 on the basis of information available on record. It shows that the appellant assessee is not interested in representing his case and he has nothing to say on the merit of the case. Therefore, the appeal of the appellant is dismissed without any discussion on the merits of the case. Accordingly, the appeal of the appellant is not allowed.”*

We also noted that the assessment order is passed u/s.144 r.w.s. 147 of the Act. Admittedly, there is number of opportunities provided by AO as well as CIT(A), but the CIT(A)-NFAC failed to act judiciously as no adjudication on merits. Hence, considering the facts in entirety and the fact that the appellate order by the CIT(A)-NFAC is dismissed for default in simpliciter and no adjudication on merits, even otherwise the order of AO is also ex-parte and passed u/s.144 as best judgment assessment u/s.144 of the Act, in the facts of the case, we feel that one more opportunity be provided to assessee to substantiate his case before the AO and accordingly, we

set aside the order of CIT(A)-NFAC as well as that of the AO and remand the matter in entirety back to the file of the AO with a condition that the assessee will pay a cost of Rs. 25,000/- (Rupees twenty five thousand only) to be paid to the Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras by the assessee within a month's time from the date of receipt of this order. The assessee will pay this cost and produce the receipt before the AO. In term of the above, the matter is remanded back to the file of AO for fresh adjudication after allowing reasonable opportunity of being heard to the assessee. Accordingly, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court at the time of hearing on 21<sup>st</sup>August, 2024 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

**(S.R. RAGHUNATHA)**

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 21<sup>st</sup>August, 2024

*RSR*

Sd/-

(महावीर सिंह )

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त /CIT, Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.