

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.:1766/CHNY/2024

निर्धारण वर्ष/Assessment Year:2013-14

**Shri Velappa Rowther Abdul
Azeez Mohamed Raja,**
16/1, Banu Illam,
Revenue Colony,
Sottayamp R N Pudhur PO,
Erode – 638 005.

The ACIT,
Vs. Circle -1,
Erode

PAN: AOQPM 3684L

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri N. Arjun Raj, Advocate
for Shri T. Vasudevan, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri 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 (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Order No.ITBA/NFAC/S/250/2023-24/1058924597(1) dated 20.12.2023. The assessment was framed by the National Faceless Assessment Centre, Delhi for the

assessment year 2013-14 u/s. 147 r.w.s. 144 r.w.s. 144B of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 20.09.2021.

2. At the outset, the Id.counsel for the assessee pointed out from the order of CIT(A)-NFAC that the order is passed for default on the part of the assessee and dismissed the appeal without adjudicating on merits. The Id.counsel took us through the order of CIT(A)-NFAC's finding at para 4 and stated that the CIT(A) has relied on the Tribunal's decision in the case of M/s. Chhabra Land & Housing Ltd., in ITA No.1025-1027/CHD/2005 and the decision of Hon'ble Supreme Court in the case of B.N. Bhattacharjee & other reported in 118 ITR 461 (SC). Hence, according to him, the CIT(A)-NFAC merely can't dismiss the appeal for default on the part of assessee but appeal has to be decided on merits. He relied on the decision of Hon'ble High Court of Madras in the case of Southern Steel Industries vs. AAC (CT), [1996] 101 STC 273 (Mad), wherein the Hon'ble Madras High Court held that unless the statute authorizes the quasi judicial authority to dismiss the appeal for default expressly or by inevitable implication, but the appellate authority has to decide the appeal on merits and not dismiss it for default. Admittedly, the Income Tax Appellate Tribunal Rules, 1963, Rule 24,

hearing of appeal ex-parte for default by the appellant, matter can be heard but it has to be disposed of on merits. When this was confronted to Id.CIT-DR, he only insisted that CIT(A) has allowed many opportunities.

3. After hearing rival contentions and going through the fact that the appeal is dismissed for default on the part of appellant but appeal is not decided on merits. There is no iota of word on merits in this appellate order. Hence, we have left with no alternative except to set aside the order of CIT(A) and remand the matter back to his file for fresh adjudication. Hence, the order of CIT(A) is set aside and matter remanded back to his file for fresh adjudication on merits after allowing reasonable opportunity of being heard to the assessee.

4. 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 21st August, 2024 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 21st August, 2024

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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