

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.:1784/CHNY/2024

निर्धारण वर्ष/Assessment Year:2014-15

**Sri Varadaraja Textiles Pvt.  
Ltd.,**  
No.334-A, Avinashi Road,  
Peelamedu,  
Coimbatore -641 004.

**The Asst. Commissioner of  
Income Tax,**  
Vs. Corporate Circle -2,  
Coimbatore – 641 018.

**PAN: AADCS 4875M**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Saroj Kumar Parida, 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 (Appeal), National Faceless Appeal Centre, Delhi in Order No.ITBA/NFAC/S/250/2024-25/1064371136(1) dated 25.04.2024. The impugned penalty u/s.271(1)(c) of the Income Tax Act, 1961 (hereinafter the 'Act') was levied by the Assessing Officer, Assessment Unit, Income Tax

Department for the assessment year 2014-15 vide order dated 28.11.2023.

2. At the outset, the Id.counsel for the assessee stated that the CIT(A)-NFAC has dismissed the assessee's appeal for default simpliciter and has not decided the appeal on merits. The Id.counsel for the assessee took us through the findings of CIT(A)-NFAC and read out the entire findings and stated that there is no iota on merits discussed by CIT(A)-NFAC, whereas he has discussed that how the appeal can be dismissed for default. The Id.counsel for the assessee particularly drew our attention to the last para of the CIT(A)-NFAC, which reads as under:-

*“In view of the appellant's total non-compliance during appeal proceedings, I find it extremely difficult to adjudicate on the appeal for want of adequate submission and clarification, counter-clarification.*

*In the result, the appeal is dismissed.”*

In view of the above, the Id.counsel requested for one more opportunity.

3. On the other hand, the Id.CIT-DR stated that the CIT(A)-NFAC has fixed this appeal for three or four times but no response is received from assessee. Hence, the CIT(A)-NFAC was

constrained to pass this order but he could not answer why he has not decided on merits based on material available with him.

4. After hearing rival contentions and going through the facts of the case and particularly, the order of CIT(A)-NFAC, we noted that the CIT(A)-NFAC has simpliciter dismissed the appeal for default and not adjudicated or decided merits of the case. After going through the provisions of the Act particularly provision of section 250 of the Act, we are of the view 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. For this, we rely 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). In term of the above, the order of CIT(A)-NFAC 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.

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

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

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

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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