

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' 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 No.96/Chny/2024
निर्धारण वर्ष/Assessment Year: 2017-18

Shri R. Vijayalayan, NR IAS Academy Ramji Nagar, K. Kallikudi P.O. Tamil Nadu PIN: 620 009	v.	The ITO, Ward-1(2), Trichy.
[PAN: ADQPV 2484 E]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri Narayanan, Manager
प्रत्यर्थी की ओर से /Respondent by	:	Shri P. Sajit Kumar, JCIT
सुनवाईकीतारीख/Date of Hearing	:	01.07.2024
घोषणाकीतारीख /Date of Pronouncement	:	21.08.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 24.11.2023 for the Assessment Year (hereinafter in short "AY") 2017-18.

2. At the outset, the Ld.AR of the assessee submitted that the Ld.CIT(A) has passed order *ex parte* without hearing the assessee, and likewise the Assessment Order was also passed u/s.144 of the Income Tax Act, 1961 (hereinafter in short "the Act") i.e, the best judgment



:: 2 ::

assessment; and also pointed out that before this Tribunal, the assessee for the first time has filed financials/relevant documents and other evidences (income and expenditure account, balance sheet, etc.), which are relevant for assessment. Therefore, he prayed that the assessee be granted an opportunity before the AO and relied on the decision the Hon'ble Supreme Court TIN Box Co. v. CIT reported in [2001] 249 ITR 216 (SC).

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

4. Aggrieved, the assessee is in appeal before this Tribunal.

5. We have heard both the parties and perused the material available on record. We note that impugned order of the Ld.CIT(A) is an *ex parte* order *qua* assessee and likewise, the AO has also passed an *ex parte* order *qua* assessee; and the assessee has filed income & expenditure account, balance sheet and other relevant documents for the first time before this Tribunal, which needs to be considered by the AO for correctly framing the assessment. Considering the aforesaid facts, for the ends of justice and fair-play, we are inclined to grant one more opportunity to assessee before the AO. For taking such a recourse, we rely on the decision of the Hon'ble Supreme Court in the case of TIN Box Co. v. CIT reported in [2001] 249 ITR 216 (SC) and set aside the impugned order of



ITA No.96/Chny/2024 (AY 2017-18)
Shri R. Vijayalayan,

:: 3 ::

the Ld.CIT(A) and remand the assessment back to the file of the AO for de novo assessment and the assessee is directed to be diligent and file written submissions/relevant documents before the AO and to participate in the assessment proceedings and the AO to frame assessment in accordance to law after hearing the assessee.

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

Order pronounced on the 21st day of August, 2024, in Chennai.

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 21st August, 2024.
TLN, Sr.PS

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