

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' 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 Nos.1475, 1476 & 1477/Chny/2024
निर्धारण वर्ष /Assessment Years: 2015-16, 2016-17 & 2017-18

Modern Facility and Security
Management,
C/o.Moses Ravikumar, Sabari Nivas,
No.10, Gurudeva Nagar, IAF Road,
East Tambaram, Selaiyur Post,
Chennai.
[PAN: AARFM7280R]

The Income Tax Officer,
Non-Corporate Ward-19(6),
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri J.Saravanan, Advocate,

प्रत्यर्थी की ओर से /Respondent by

: Shri Dr.Samuel Pitta, JCIT

सुनवाई की तारीख/Date of Hearing

: 13.08.2024

घोषणा की तारीख /Date of Pronouncement

: 21.08.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This three appeals are filed against the order bearing DIN & Order
No.ITBA/NFAC/S/250/2023-24/1062974753(1),
No.ITBA/NFAC/S/250/2023-24/1062974458(1) and
No.ITBA/NFAC/S/250/2023-24/1062975629(1) dated 20.03.2024 of the
Learned Commissioner of Income Tax [herein after "CIT(A), National
Faceless Appeal Center[NFAC], Delhi, for the assessment years 2015-

16, 2016-17, 2017-18. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 20.03.2024, passed by NFAC, Delhi.

2.0 All the above three appeals are having common issues centering around order u/s 144/147 passed by the AO and their corresponding confirmation by the Ld.CIT(A). The issues being identical are accordingly disposed off by this common order. AY-2015-16 covered by ITA No.1475 is being disposed off as lead year.

3.0 At the outset, the Ld.AR of the assessee informed that the assessee firm, dealing in the business of providing man power facility and services, was having some disputes and personal animosities amongst the partners leading to non-filing of return as well as inadequate attention to income tax proceedings. It was submitted that this was the primary reason for non-compliance before the Ld.AO and the first appellate authority. The Ld.AR informed that for the year under consideration notice u/s 148 was issued on 14.03.2019 which remained uncomplied by the assessee. The Ld.AO noted from 26AS statement gross receipts of the firm amounting to Rs.1,02,82,949/-. In the absence of any compliance by the assessee, the Ld.AO proceeded to apply an estimated profit @ 6.5% and consequently made an addition of Rs.7,15,581/- pertaining to AY-

2015-16. In the background of submissions qua disputes and bickerings amongst partners, request was made, by the Ld.AR, to set aside the matter to the Ld.AO for reconsideration. The Ld.AR assured that full cooperation would be rendered to the AO in terms of compliance to all his notices and production of required evidences.

4.0 The Ld.DR concurred to the proposal but requested for levy of cost upon the assessee for wasting precious judicial time.

5.0 We are of the view that ends of justice would be met if the assessee is given one last opportunity to present its case and filed supporting evidences before the Ld.AO. The assessment order of the Ld.AO and the appellate order passed by the first appellate authority are therefore set aside. Accordingly, placing reliance upon the decision in the case of TIN box 249 ITR 216 the matter is restored to the file of the AO for assessment de novo. The assessee is directed to make complete and correct compliance towards the notices issued by the AO. Needless to say that the AO will allow reasonable opportunity of being heard to the assessee.

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6.0 We noted that the assessee was provided many opportunities by both the authorities below but assessee did not avail the opportunities but in the interest of natural justice, we are of the view that to do substantial justice one more opportunity be provided to the assessee to represent the true and clear facts before the AO and hence, we have set aside the orders of the lower authorities i.e., the AO and the CIT(A) and remand the matter back to the file of the AO. The said remission is however subject to the assessee paying a cost of Rs.5000/- to be paid to the Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras on or before 20.09.2024. The assessee will pay this cost and produce the receipt before the AO.

7.0 The grounds of appeal raised by the assessee partly allowed for statistical purposes.

ITA Nos.1476 & 1477/Chny/2024 - Assessment Years: 2016-17 & 2017-18

8.0 As stated above, the facts of the case for the above mentioned ITA Nos. 1476 & 1477 are identical and hence, the decision taken above in respect of ITA No.1475 for AY-2015-16 shall apply for these AYs-2016-17 & 2017-18 also.

9.0 In the result the grounds of appeal raised by the assessee are partly allowed for statistical purposes.

Order pronounced on 21st August, 2024 at Chennai.

Sd/-
(एबी टी. वर्की)
(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

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

KB/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT - Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF