

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री जगदीश, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.955/Chny/2024
निर्धारणवर्ष/Assessment Year: 2017-18

Shri Ramesh Chinthakayala, No.13, Subbaraya Chetty Street, Kondithope, Chennai-600 001.	v.	The ITO, NCW-6(1) E, Chennai.
[PAN: AIDPR 2736 F]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri S. Seetharaman, CA
प्रत्यर्थी की ओर से /Respondent by	:	Shri P. Sajit Kumar, JCIT
सुनवाईकीतारीख/Date of Hearing	:	11.07.2024
घोषणाकीतारीख /Date of Pronouncement	:	23.08.2024

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 08.02.2024 for the Assessment Year (hereinafter in short "AY") 2017-18.

2. At the outset, the Ld.AR of the assessee brought to our notice that the Ld.CIT(A) has passed an ex parte order without hearing the assessee. Further, according to the Ld.AR even the AO passed best judgment assessment u/s.144 of the Income Tax Act, 1961 (hereinafter in short



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'the Act') without giving proper opportunity to the assessee. Therefore, assessee relying 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) prays that the assessee may be given an opportunity before the AO and also the liberty to file all the relevant documents before the AO.

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

4. We have heard both the parties and perused the material available on record. We note that the assessee claims to be a supplier of Britannia breads, etc., and has deposited in his bank account Specified Bank Notes (hereinafter in short 'SBNs') during the demonetization period. The AO asked the assessee to prove the nature and source of SBNs deposited in his bank account, and since assessee didn't get proper opportunity before the AO, he couldn't furnish all the relevant documents before the AO, which led the AO to pass ex-parte/best judgment assessment; and the Ld.CIT(A) has also passed an ex parte order dismissing the appeal of the assessee. According to the assessee, due to technical glitches, the assessee didn't receive any notices which facilitated the dismissal of his appeal by the Ld.CIT(A). Be that as it may, since the assessee didn't get proper opportunity before the AO, relying on the decision of the Hon'ble Supreme Court in the case of TIN Box Co. (supra), we set aside the



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impugned order of the Ld.CIT(A) and restore the assessment back to the file of the AO with a direction to the assessee to file all relevant documents before the AO and after hearing the assessee, the AO to frame de novo assessment in accordance to law.

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

Order pronounced on the 23rd day of August, 2024, in Chennai.

Sd/-
(जगदीश)
(JAGADISH)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 23rd August, 2024.
TLN, Sr.PS

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF