

आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं
माननीय श्री अमिताभ शुक्ला . लेखा सदस्य के समक्ष।
**BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER
AND HON'BLE SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No.1752/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2013-2014)

Vimal Chand Kothari (Deceased)
By legal Heir Pankaj Kothari,
Plot No.4-A, Laxman Nagar,
Kandanchavadi, Chennai 600 096.

Vs. The Income Tax Officer,
Non Corporate Ward 15(5)
Chennai.

[PAN: AADPK 0355R]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri Anandd Babunath, C.A.,
: Ms. Gouthami Manivasagam, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing : 21.08.2024

घोषणा की तारीख /Date of Pronouncement : 26.08.2024

आदेश / ORDER

MANU KUMAR GIRI (Judicial Member)

This appeal filed by the assessee is directed against the order No.ITBA/NFAC/S/250/2023-24/1055459568 (1) of the Ld. Commissioner of Income Tax (Appeals)(NFAC) Delhi [CIT(A)] dated 28.08.2023 for Assessment Year 2013-14.

2. Assessee is an individual. The assessing officer in his order observed that as per information collected, the assessee has entered into a sale transaction in

respect of his immovable property in Ottilyambakkam village for a consideration of Rs.1.40 crores. Assessee also deposited cash deposit of Rs.21,28,000/- and turnover of Rs.55,65,457/- on sale of scrapes. Assessee failed to file return of income for AY 2013-14. The case was reopened u/s147 of the Income Tax Act, 1961 ('Act' in short). During assessment proceedings, the assessee was not able to justify the sale of immovable property / land in Ottilyambakkam as agricultural land not liable to long term capital gain tax. Hence, Id.AO made an addition of Rs.1,40,00,000/- vide order dated 29.12.2019 u/s. 143(3) r.w.s 147 of the Act. Aggrieved, assessee preferred an appeal before the Id.CIT(A), who dismissed the appeal of assessee on merits although assessee failed to appear or file written submissions before the Id.CIT(A) despite three notices. Assessee is in further appeal before us.

3. At the outset, Ld.AR for the appellant submitted that Ld. CIT(A) had not properly followed the principles of natural justice in true spirit. Ld.CIT(A) issued first notice dated 23.01.2021 during Covid-19 period and others in 2023 after gap of almost 2½ years which were inadvertently not noticed by the assessee. Ld. AR for the appellant further prayed that if an adequate opportunity of hearing is given before Id.CIT(A), assessee will prosecute the appeal properly. Ld.JCIT-DR relied upon the order of Id.CIT(A) and prayed for dismissal of appeal.

4. We have gone through the orders of lower authorities and submissions addressed by the parties before us. We are of the considered view that in the interest of

justice assessee should be given one more opportunity before Id.CIT(A) to prosecute his case. Therefore, in the light of aforesaid factual position we deem it fit to set aside this appeal to the file of Id.CIT(A) to hear the appeal afresh. The assessee is directed to substantiate its case forthwith without any fail, failing which Ld. CIT(A) shall be at liberty to proceed with the disposal of the appeal as per law.

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

Order pronounced in the open court on 26th day of August, 2024 at Chennai.

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई Chennai:

दिनांक Dated :26-08-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

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