

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'D' 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.1573/Chny/2024  
निर्धारण वर्ष/Assessment Year: 2017-18

M/s. Sri Motors, No.72/166, Mount Poonamallee Road, Porur, Chennai-600 116.	v.	The ITO, Non-Corporate Ward-8(4), Chennai.
[PAN: ADBFS 4277 K]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri B. Anand Babunath, CA
प्रत्यर्थी की ओर से /Respondent by	:	Shri R. Bhoopathi, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	23.07.2024
घोषणाकीतारीख /Date of Pronouncement	:	28.08.2024

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

2. At the outset, the Ld.AR of the assessee pointed out that the Ld.CIT(A) has passed an ex parte order without going into the merits of



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the grounds of appeal raised by the assessee. According to the Ld.AR, even the AO has passed order u/s.144 of Income Tax Act, 1961 (hereinafter in short "the Act") (best judgment assessment) without hearing the assessee. According to the Ld.AR of the assessee, the Authorized Representative who was entrusted with the case of the assessee to represent before the AO, had lost his sight while assessment proceedings were going on and therefore, couldn't properly represent before the AO, which led the AO to pass best judgment assessment without properly hearing the assessee. Therefore, 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), the Ld.AR pleaded one more opportunity be granted to the assessee before the AO.

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

**4.** Having heard both the sides and perused the records, we note that the Ld.CIT(A) has passed ex parte order without going into the grounds of appeal raised by the assessee. Similarly, the AO has passed an ex parte order without properly hearing the assessee. For the ends of justice and fair play, since assessee didn't get proper opportunity before the AO as held by the Hon'ble Supreme Court in the case of TIN Box Co. (supra), we set aside the impugned order of the Ld.CIT(A) and restore the



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M/s. Sri Motors

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assessment back to the file of the AO for de novo assessment and the assessee is directed to file relevant documents/written submissions before the AO and the AO to frame assessment de novo after hearing the assessee.

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

Order pronounced on the 28<sup>th</sup> 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: 28<sup>th</sup> August, 2024.

**TLN, Sr.PS**

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

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