

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस. आर. रघुनाथ, लेखक सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.607/Chny/2024
निर्धारण वर्ष /Assessment Year: 2011-12

Mrs. Indra Galada,
New No.22, Old No.59,
2nd Main Road, R.A. Puram,
Chennai – 600 028.
[PAN: AADPG 9039N]

Vs. The Asst. Commissioner of
Income Tax,
Non-Corporate circle -9(1),
Chennai.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Assessee by

: Shri N. Arjun Raj, Advocate for
Shri D. Anand, Advocate

प्रत्यर्थी की ओर से /Revenue by

: Shri V. Nandakumar, CIT

सुनवाई की तारीख/Date of Hearing

: 11.06.2024

घोषणा की तारीख /Date of Pronouncement

: 28.08.2024

आदेश / ORDER

PER S.R. RAGHUNATHA, A.M :

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), [NFAC], Delhi [hereinafter "CIT(A)"] in DIN & Order No.ITBA/NFAC/S/250/2023-24/1059671380(1), dated 12.01.2024. The assessment was framed by the Asst. Commissioner of Income Tax, Non Corporate Circle-9(1), Chennai for the Assessment Year 2011-12 u/s.143(3) r.w.s 147 of the

:- 2 -:

Income Tax Act, 1961 (hereinafter the 'Act'), vide order dated 08.12.2018.

2. At the outset, the Id. AR for the assessee stated that the only issue in this appeal of assessee is as regards to the order of CIT(A)-NFAC sustaining the action of AO in assessing the transaction relating to the transfer of property in the impugned assessment year while the very same transaction on transfer of property was offered to LTCG for the A.Y.2012-13 and the same has been accepted by the Department. Further, he stated that the NFAC has erred in disposing of the appeal without providing reasonable opportunity of being heard to the assessee.

3. The Ld. AR for the assessee took us through the order of CIT(A)-NFAC and stated that the CIT(A)-NFAC simpliciter dismissed the appeal after discussing the assessment order and thereafter noting that the assessee was provided number of opportunities through notices and this fact is noted by him in his order at pages 4 & 5 as under:-

<i>S.N.</i>	<i>Date of Notice issued</i>	<i>Date of hearing</i>	<i>Status</i>	<i>Remarks</i>
1.	30.09.2019	--		<i>Physical letter was issued by the o/o CIT(Appeals)-10, Chennai, calling for specific details, however no reply was filed by the appellant</i>

:- 3 -:

2.	11.10.2019	-		<i>Physical letter was issued by the o/o CIT(Appeals)-10, Chennai, calling for specific details, however no reply was filed by the appellant</i>
3.	01.01.2021	18.01.2021	Mail delivered	<i>Notice was sent through ITBA but proceedings remained un-complied with.</i>
4.	30.11.2023	07.12.2023	Mail delivered	<i>Notice was sent through ITBA but proceedings remained un-complied with.</i>
5.	18.12.2023	26.12.2023	Mail delivered	<i>Notice allowing final opportunity was sent through ITBA but proceedings remained un-complied with on stipulated date and even till date</i>

4. The Ld. counsel for the assessee further stated that, after providing five opportunities by issuing notices, the Ld. CIT(A), NFAC has just confirmed the AO's order by dismissing all the grounds of the assessee. In term of the above, the ld. counsel for the assessee requested for one more opportunity.

5. On the other hand, the ld. CIT-DR stated that the Ld. CIT(A)-NFAC has decided the issues on merits although assessee was never present despite many notices served on him.

6. After hearing rival contentions and going through the facts of the case, we noted that the Ld. CIT(A)-NFAC issued number of notices but the assessee was totally negligent and careless and has not responded to any of the notices. Hence, the Ld. CIT(A)-NFAC passed ex-parte order. We noted that the Ld. CIT(A)-NFAC simpliciter after

: - 4 - :

discussing the facts from the assessment order, confirmed the addition. In the interest of justice and fair play, we feel that the assessee should have been allowed one more opportunity to provide the details. However, to meet the ends of justice, we set aside the order of the Ld. CIT(A)-NFAC and remand the matter back to his file. In term of the above, the matter is remanded back to the file of the Ld. CIT(A)-NFAC for fresh adjudication after allowing reasonable opportunity of being heard to the assessee. Accordingly, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced on 28th August, 2024.

Sd/-
(महवीर सिंह)
(Mahavir Singh)
उपध्यक्ष / Vice President

Sd/-
(एस. आर. रघुनाथ)
(S.R. Raghunatha)
लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 28th August, 2024.

EDN/-

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