

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

श्री एस एस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI S.S. VISWANETHRA RAVI, HON'BLE JUDICIAL MEMBER**  
**AND SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1711/Chny/2024**

निर्धारण वर्ष / Assessment Year: 2017-18

VIP City,  
141 Lakshmi Street,  
Janaki Nagar,  
Valasarvakkam,  
Chennai – 600 087.

DCIT,  
v. Central Circle -2(2),  
Chennai.

**[PAN: AAHFV-9469-K]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. G. Tarun, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Ms. Gouthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing

: 04.09.2024

घोषणा की तारीख/Date of Pronouncement

: 11.09.2024

**आदेश / O R D E R**

**PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals)-19, Chennai, for the assessment year 2017-18, vide order dated 28.05.2024.

2. The brief facts are that, the assessee is a partnership firm had not filed the return of income for the assessment year 2017-18. Based on the information that cash deposits are made into bank account of the firm during the demonetization period, reopened the assessment proceedings by issuing a notice u/s. 148 of the Act on 31.01.2019. Since, the assessee had not submitted any information or filed return of income, the AO passed an exparte re-assessment order u/s. 144 of the Act on 29.12.2019 by making an addition u/s. 69A of the Act of Rs.1,38,92,812/- as per the total credits made by the assessee in its Karur Vysya Bank account obtained by the AO by issuing a notice u/s. 13(6) of the Act from Karur Vysya Bank Ltd, T.Nagar Branch. Aggrieved by the action of the AO, the assessee preferred an appeal before the Id.CIT(A), Chennai-19.

3. The Id.CIT(A) on perusal of the financial statements of accounts as on 31.03.2017 filed by the assessee showing a loss of Rs.43,40,836/- confirmed the addition by dismissing the appeal of the assessee by holding as under:

*"6.6 The undersigned has carefully examined the issue raised. The only around to adjudicated is whether the cash deposit made into the bank accounts of the account amounting Rs.1,38,92,918/- constitute unaccounted income or not.*

*6.7 The Appellant during the course of Appellate proceedings was able to furnish financial statements by claiming losses. The department can accept such a loss only had the Appellant filed return of income u/s 139(1) of the Act. In the case of the Appellant, the Appellant has not cared to file the statutory return in response to the notice issued u/s 148 of the Act also.*

*6.8 When the Appellant was able to make deposit of Rs.1,38,92,918/- into its bank accounts, there exists a statutory liability on the part of the Appellant to file a return of income by disclosing its true state of affairs. In the absence of such actions from the Appellant side, the undersigned is no longer inclined to accept the contention of the Appellant about the loss and absolutely there exists no reason warranting any intervention in the findings of the AO in making the addition of Rs.1,38,92,918/- as unexplained money as per the provisions of section 69A of the Act for the AY 2017-18. Accordingly all the grounds raised by the Appellant are here by treated as dismissed and the addition of Rs.1,38,92,918/- as unexplained money u/s 69A of the Act is hereby sustained."*

Aggrieved by the order of the Id.CIT(A), the assessee preferred this appeal before us.

4. The Id.AR of the assessee, stated that the order u/s. 144 of the Act was passed by making an addition of entire deposits made during the assessment year 2017-18 and also the Id.CIT(A) has confirmed the addition without considering any submissions of the assessee and prayed for remanding the issue to the AO.

5. Per contra, the Id.Sr.DR stated that the assessee is negligent having not filed the return of income and also not responded to the statutory notices issued by the AO and prayed for dismissing the appeal of the assessee.

6. We have heard the rival contentions and gone through the facts and circumstances of the case. We noted that assessee is a firm and due to non-participation before the Assessing Officer has passed order. The plea of the assessee was that the non-appearance/participation was not deliberate and the Id. AR undertakes to appear before the authorities, provided an opportunity is given. Since, exparte order has been passed by AO, we deem it fit to restore the assessment back to the file of the Assessing Officer by relying on the decision of the Hon'ble Supreme Court in the case of Tin Box Company vs CIT, [2001] 249 ITR 216 (SC). To meet the ends of justice, we remit back the appeal to the file of the AO for denovo adjudication and subject to cost of Rs.10,000/- which shall be deposited by the assessee within 30 days from the date of receipt of this order to 'Tamil Nadu State Legal Services Authority' at Hon'ble High Court of Madras. The proof of the same will be furnished by the Assessee before the AO, who shall

proceed for de novo assessment in accordance to law, after providing reasonable opportunity to the assessee. Needless to say, assessee to be diligent and file written submissions and relevant documents if advised so.

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

Order pronounced in the court on 11<sup>th</sup> September, 2024 at Chennai.

**Sd/-**  
(एस एस विश्वनेत्र रवि)  
**(S.S. VISWANETHRA RAVI)**  
न्यायिक सदस्य/**Judicial Member**

**Sd/-**  
(एस. आर. रघुनाथा)  
**(S. R. RAGHUNATHA)**  
लेखा सदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 11<sup>th</sup> September, 2024

**JPV**

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