

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

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखक सदस्य के समक्ष
BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2277/Chny/2024
निर्धारण वर्ष /Assessment Year: 2010-11

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स्टे याचिका सं. / S.A No.49/Chny/2024
(arising out of ITA No.2277/Chny/2024)
निर्धारण वर्ष / Assessment Year: 2010-11

Narayanagr Palanisamy,
13/20, Koli Thottam,
Ravathoor Irugur,
Coimbatore – 641 103.
[PAN: BABPP 1521P]

The Income Tax Officer,
Vs. Non Corporate Ward-4(1),
Coimbatore.

(अपीलार्थी/**Appellant/Applicant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Assessee by
प्रत्यर्थी की ओर से /Revenue by

: Ms. N.V.Lakshmi, Advocate
: Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 13.09.2024

घोषणा की तारीख /Date of Pronouncement

: 18.09.2024

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal as well as Stay Application filed by the assessee for Assessment Year (AY) 2010-11 arises out of the order of Learned Commissioner of Income Tax, Appeal, Addl/JCIT(A)-1, Guwahati [hereinafter "CIT(A)"] dated 12.03.2024.

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2. The stay application has been filed against the demand raised by Assessing Officer in assessment order passed u/s. 144 r.w.s 147 of the Income Tax Act, 1961 (hereinafter "the Act"). While going through the stay petition, we observed that the assessment has been reopened on the ground that the assessee has deposited cash of Rs.10,41,000/- in the saving bank account held in Axis Bank during Financial Year 2009-10. The A.O has passed ex-parte order u/s. 144 of the Act assessing total income of Rs. 10,41,000/- raising a demand of Rs.6,66,160/-. The Ld. CIT(A) has upheld the order passed u/s. 144 of the Act rejecting the assessee's arguments that cash was deposited out of savings from the agricultural income.

3. The Ld. AR has submitted that the assessee has already deposited 20% of the tax demand and the assessment order passed u/s. 144 of the Act. The Ld. AR further submitted that the assessee has sufficient material to prove that the cash deposited out of agriculture income and therefore, one more opportunity should be given before the A.O to prove his case.

4. The Ld. D.R, on the other hand, opposed the stay application and submitted that the order passed u/s. 144 of the Act should be confirmed as the assessee has not appeared before the A.O.

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5. We have heard the rival submissions, perused the materials available on record and have gone through the stay application and the orders of the A.O & Ld. CIT(A). As the assessment order has been passed u/s 144 of the Act and the evidence need to be examined with the consent of both parties we take up the assessee's appeal in ITA No.2277/Chny/2024 along with the stay application. The appeal has been filed late by 109 days and the assessee has given the reasons for delay in not filing the appeal in time. After considering the reasons given by the assessee, we condone the delay in filing the appeal.

6. We have considered the submissions made by the assessee and are opinion that the assessment order has been passed ex-parte and the assessee needs to be given one more opportunity to prove his case before A.O. Accordingly, we set aside the order passed by the A.O and restore the matter back to the file of the A.O for *denovo* adjudication after giving reasonable opportunity to the assessee. We also direct the assessee to appear before the A.O on the date of hearing without fail. As we have already set aside the assessment order, the stay application filed by the assessee becomes infructuous. In view of the above, the appeal filed by the assessee is allowed for

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statistical purposes and stay application filed by the assessee becomes infructuous.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes and the stay application filed by the assessee becomes infructuous.

Order pronounced on 18th September, 2024.

Sd/-
(यस यस विश्वनेत्र रवि)
(SS Viswanethra Ravi)
न्यायिक सदस्य / Judicial Member

Sd/-
(जगदीश)
(Jagadish)
लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 18th September, 2024.
EDN/-

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Coimbatore
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF