

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.436/Chny/2024
निर्धारण वर्ष /Assessment Year: 2017-18

The Income Tax Officer,
Non Corporate Ward-19(6),
Chennai.

Vs. Moorthy Vinodhini,
New No.49, Second Floor,
Navarathna Garden,
Second Street, Ekkattuthangal,
Chennai – 600032.
[PAN: AGUPV 0267C]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

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

: Ms. Hema Muralikrishnan, Advocate
: Shri N.S.Phanidharan, JCIT

सुनवाई की तारीख/Date of Hearing

: 19.09.2024

घोषणा की तारीख /Date of Pronouncement

: 20.09.2024

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee for Assessment Year (AY) 2017-18 arises out of the order of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 28.12.2023.

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2. The only effective ground in this appeal of assessee is against the order of Ld. CIT(A) in estimating the net profit @ 1.5% as against net profit @ 8% of turnover provided in Section 44AD of the Income Tax Act, 1961 (hereinafter "the Act").

3. The brief facts of the case are that the assessee is in the business of procuring sand and other building material and supplying the same to real estate developers in the city of Chennai under the name of the proprietary concern "Dutech Enterprises". The assessee has deposited Rs. 10,80,000/- in her bank account during demonetization period but has not filed return of income for A.Y 2017-18. The A.O in the ex-parte order passed u/s. 144 of the Act has made the addition of entire credit of Rs. 6,90,13,510/- in the bank account as unexplained investment u/s. 69 of the Act. On appeal, the Ld. CIT(A) has estimated the income @ 1.5% of the credit in the bank account and accordingly, restricted the addition to the tune of Rs. 10,35,000/-.

4. The Revenue is in appeal against adopting the rate of 1.5% of gross turnover of income as against @ 8% of turnover provided in Section 44AD of the Act. The Ld. DR has argued that the Ld. CIT(A) has adopted 1.5% of the turnover as the net profit stating that the net

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profit in her line of business is usually above 1.2% to 1.8%, but has not given any comparable case. Therefore, estimation of income is arbitrary and against the provisions of Section 44AD of the Act.

5. The Ld. Authorized Representative (A.R) of the assessee has supported the order of Ld. CIT(A) and submitted that in the preceding year net profit was accepted @ 3.5% by the Department and subsequently, due to government policy on sand mining the business was closed. Therefore, estimation of 1.5% was justified. The Ld. AR has also argued that Section 44AD of the Act is not applicable in assessee's case as her turnover exceeds Rs. 2 Cr.

6. We have heard the rival submissions, and perused the materials available on record. The Ld. CIT(A) has estimated the net profit @ 1.5% by stating that net profit in her line of business is between 1.2% to 1.8%. The assessee herself has shown net profit of 3.5% in the immediately preceding year, which has been accepted by the Department. We therefore, do not agree with the estimation of Ld. CIT(A) @ 1.5% of gross turnover as income and estimate the profit @ 3.5% which has been accepted by the Revenue in the immediately

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preceding year. In view of the above, the appeal filed by the Revenue is partly allowed.

7. In the result, the appeal filed by the Revenue is partly allowed.

Order pronounced on 20th 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: 20th September, 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