

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1697/Chny/2024

निर्धारण वर्ष/Assessment Year: 2015-16

Mr. Ganesh Naidu,
169, SIPCOT Housing Colony,
Mookandapally Dharga Hosur,
Krishnagiri-635 126.

v.

The ITO,
CHE-W-(231)(92)
Chennai.

[PAN: AHJPG 5269 K]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

:

Mr.D. Anand

प्रत्यर्थी की ओर से /Respondent by

:

Dr. Samuel Pitta, JCIT

सुनवाईकीतारीख/Date of Hearing

:

21.08.2024

घोषणाकीतारीख /Date of Pronouncement

:

18.10.2024

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 26.04.2024 for the Assessment Year (hereinafter in short "AY") 2015-16.

2. The main grievance of the assessee is that the Ld.CIT(A) has passed an ex parte order qua assessee and the AO also has passed the best judgment assessment u/s.144 of the Income Tax Act, 1961 (hereinafter in short "the Act"). According to the Ld.AR, high pitched



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additions have been made by the AO without giving proper opportunity to the assessee. Therefore, he prayed that an opportunity of hearing may be granted to the assessee before the AO; and the Ld.AR undertakes to file all relevant documents before the AO and for such a proposition, he relied 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).

3. Per contra, the Ld.DR doesn't want us to give one more innings to the assessee. According to the Ld.DR, the assessee has been deliberately not appearing before the authorities and therefore, he should not be granted one more opportunity before AO.

4. We have heard both the parties and perused the material available on record. We note that the impugned order of the Ld.CIT(A) is an ex parte order qua assessee and likewise, the assessment order has been framed ex parte qua assessee. According to the Ld.AR, the assessee didn't receive notice of hearing and only received the notice dated 01.03.2023 which was responded on 06.03.2023 and the AO had passed the order on 25.03.2023 i.e. within '20' days. Therefore, the assessee couldn't file the relevant documents/written submissions before the AO. Be that as it may, we find that the assessee didn't get proper opportunity before the AO as well as the Ld.CIT(A). In such a scenario, relying on the decision of the Hon'ble Supreme Court in the case of TIN Box Co. v. CIT



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Mr. Ganesh Naidu

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reported in [2001] 249 ITR 216 (SC), we are inclined to set aside the impugned order of the Ld.CIT(A) and restore the assessment back to the file of the AO with a direction to de novo assess the income of the assessee. The assessee is at liberty to file relevant documents /written submissions to substantiate his claim and the AO to frame de novo assessment in accordance to law after hearing the assessee.

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

Order pronounced on the 18th day of October, 2024, in Chennai.

Sd/-
(मनोज कुमार अग्रवाल)
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 18th October, 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