

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.1696/Chny/2024
निर्धारण वर्ष/Assessment Year: 2015-16

Chinnasamy Ganesh Naidu- Vijayavani, 169, SIPCOT Housing Colony, Mookandapally Dharga Hosur, Krishnagiri-635 126.	v.	The ITO, Ward-1, Hosur.
[PAN: AHFPV 9949 M]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.D. Anand, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Dr. Samuel Pitta, JCIT
सुनवाईकीतारीख/Date of Hearing	:	21.08.2024
घोषणाकीतारीख /Date of Pronouncement	:	09.10.2024

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 05.03.2024 for the Assessment Year (hereinafter in short "AY") 2015-16.

2. At the outset, it is noted that there is a delay of '34' days in filing of this appeal and assessee has filed condonation petition. Having



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perused the same, we are satisfied that there is reasonable cause for delay. So, we condone the delay and proceed to adjudicate the appeal.

3. The main grievance of the assessee is against the action of the Ld.CIT(A) passing an ex parte order and that too without passing a speaking order has confirmed the ex parte order passed by the AO. The Ld.AR submitted that the AO has also passed an ex-parte order/best judgment assessment u/s.144 of the Income Tax Act, 1961 (hereinafter in short "the Act") without giving proper opportunity to the assessee. Therefore, he prayed that the assessment proceedings be restored back to the file of the AO for violation of natural justice and also cited the decision of the Hon'ble Supreme Court in the case of TIN Box Co. v. CIT reported in [2001] 249 ITR 216 (SC).

4. 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 to the assessee.

5. Aggrieved, the assessee is in appeal before this Tribunal.

6. 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 also been framed ex parte qua assessee. According to the Ld.AR, the



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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 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 its claim and the AO to frame de novo assessment in accordance to law after hearing the assessee.

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

Order pronounced on the 09th 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: 09th October, 2024.

TLN, Sr.PS



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आदेश की प्रतिलिपि अग्रेषित / Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF