

आयकर अपीलिय 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.: **2147/Chny/2024**

निर्धारण वर्ष / Assessment Year: 2017-18

Krishnan Mohan,
No. 12, Pudupet Road,
Tirupattur,
Tirupatur Dist – 635 601.

Income Tax Officer,
v. Ward (2),
Vellore.

[PAN: AHIPM-0814-B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Mr. D. Anand, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Ms. Gouthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing

: 21.10.2024

घोषणा की तारीख/Date of Pronouncement

: 23.10.2024

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), National Faceless Appeal Centre (NFAC), Delhi, dated 24.06.2022 and pertains to assessment year 2017-18.

2. At the outset, we find that there is a delay of 721 days in appeal filed by the assessee, for which petition for condonation of delay along with reason that due to ill-health the delay in

filing the appeal has happened. After considering the petition filed by the assessee and also hearing both the parties, we find that there is a reasonable cause for the assessee in not filing appeal on or before the due date prescribed under the law and thus, in the interests of justice, we condone delay in filing of appeal and admit appeal filed by the assessee for adjudication.

3. The assessee is an individual carrying on the business of textiles and paddy in Tirupattur. The assessee filed his return of income on 18.11.2017 by admitting an income of Rs.9,71,550/-. The case was selected for scrutiny under CASS and statutory notices were issued. In response, the assessee has filed financials, bank statements, VAT returns, Audit reports etc before the Assessing Officer. After verification of bank statements, the Assessing Officer noticed that during the financial year 2016-17, the assessee had deposited cash of Rs.1,33,48,250/- into his Canara Bank account and explained that the same has been made out of cash sales and amount withdrawn from the bank. However, the Assessing Officer was not convinced with the explanation and made an addition u/s. 69 of the Act as unexplained money and brought to tax u/s. 115BBE of the Act to the returned income by passing order u/s. 143(3) of the Act

dated 28.12.2019. Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Id.CIT(A).

4. The Id.AR took us through the Para 4 of the Id.CIT(A) order, wherein seven opportunities were given by issuing notices to the assessee to participate in the appellate proceedings as detailed below:

"4. Non-compliance : This appeal was filed on 04.02.2020 and after rolling out the Faceless Appeal Scheme, first notice of hearing in this case was issued on 30.12.2020 seeking compliance by 14.01.2021. However, there was neither any response on the prescribed date nor any submission was filed. In fact the appellant has not at all complied during the appellate proceedings. Following notice of hearing/opportunities were given to appellant to represent his case:

<i>Sl.No</i>	<i>Date of issue</i>	<i>Date of compliance</i>	<i>Remarks</i>
<i>1</i>	<i>30.12.2020</i>	<i>14.01.2021</i>	<i>No response or submission received</i>
<i>2</i>	<i>12.11.2021</i>	<i>22.11.2021</i>	<i>No response or submission received</i>
<i>3</i>	<i>29.11.2021</i>	<i>06.12.2021</i>	<i>No response or submission received</i>
<i>4</i>	<i>12.01.2022</i>	<i>19.01.2022</i>	<i>No response or submission received</i>
<i>5</i>	<i>07.02.2022</i>	<i>14.02.2022</i>	<i>No response or submission received</i>
<i>6</i>	<i>02.03.2022</i>	<i>10.03.2022</i>	<i>No response or submission received</i>
<i>7</i>	<i>01.06.2022</i>	<i>08.06.2022</i>	<i>No response or submission received</i>

But the assessee has failed to comply with any of the notices. Therefore, the Id.CIT(A) had passed order dated 24.06.2022 by confirming the Assessing Officer's order with the available details and records in the file. Aggrieved by the order of the Id.CIT(A), the assessee preferred an appeal before us.

5. The Id.AR submitted that the assessee had filed all the details of financials, audit report, bank statement before the Assessing Officer. However, the Assessing Officer has not accepted the same and prayed for remanding the file back to the Assessing Officer for furnishing the details and source of cash deposits made during the financial year 2016-17.

6. Per contra, the Id.DR, argued that the assessee was negligent and had not even filed a return of income even after issuing notice. Therefore, the appeal of the assessee deserves to be dismissed.

7. We have heard the rival contentions and gone through the materials available on record and orders of the authorities below. We note that the Assessing Officer has passed an order by making an addition of Rs.1,33,48,250/- without considering any kind of expenditure. The Id.CIT(A) also has confirmed the

Assessing Officer's order without any participation of the assessee. As prayed by the Id.AR and considering the facts and circumstances of the case, we deem it fit to set aside the order of the Id.CIT(A) and remit the matter back to the file of the AO 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) and direct AO to denovo frame the order 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.

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

Order pronounced in the court on 23rd October, 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 23rd October, 2024

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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