

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

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकरअपील सं./ ITA No.1492/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-2018)

Anthiyur Palaniappan
Subramaniam Bargunan APS
Agencies,
Housing Office at No.26,
Car Street,
Anthiyur,
Erode Dist. 638 501

Vs. The Income Tax Officer,
Ward 1(5)
Erode.

[PAN: AKQPP0087L]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: None

प्रत्यर्थी की ओर से /Respondent by

: Shri. M. Karthikeyan, IRS, Addl. CIT.

सुनवाई की तारीख/Date of Hearing

: 15.10.2024

घोषणा की तारीख /Date of Pronouncement

: 18.10.2024

आदेश / ORDER

PER MANU KUMAR GIRI (Judicial Member)

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in order No.ITBA/NFAC/S/250/2023-24/1063785917(1) dated 31.03.2024. The assessment was framed by the Income Tax Officer, Ward 1(5), Erode for the assessment year

2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act'), vide order dated 10.12.2019

2. The appellant is a dealer dealing with essential commodities like Rice, Salt, Wheat, Rava, Sugar, Maida, Edible oil and provisions etc. on whole sale and retail basis. The appellant filled his return of income voluntarily admitting Rs.5,58,164/- as total income. Assessee was supplying goods to more than 450 identifiable petty shop keepers and other casual customers in and around Anthiyur and many of them are located in tribal villages of Bhargur forest areas without banking facility. Majority volume of sale of the appellant was facility on cash basis and all sales were properly reported to Commercial Tax department and the cash collected from Trade debtors were deposited to bank. A Notice u/s.142(1) of the Act were served on 16.07.2016 and 15.11.2019 calling details. The appellant furnished detailed letter along with Bank statements, VAT monthly returns copies, Cash ledger, Sources for Agri Income, Cash Flow Statements, evidences for all cash deposit to bank before the Ld. Assessing Officer. The Id. Assessing Officer noted that assessee deposited cash of Rs.61,66,000/- out of which, an amount of Rs.20,19,500/- was deposited in Specified Bank Notes. When this was pointed out, the assessee vide letter dated 01.12.2019 submitted as under:-

"I, BARGUNN proprietor of M/s. APS AGENCY, doing regular business at 26 car Street, Anthiyur, Erode, for the last 25 years and I have been filing my ROI for the last 20 years. I am dealing with FMCG goods, salt, rice, wheat, sugar, flour items, maidha, rava, edible oils, provision items, eatables, soap items, tooth paste items and other consumer durables of reputed companies as a whole sale agent and also as retails seller. These items are most essentials or essentials commodities for the general public at large.

We have around more than 450 identifiable petty shop customers and also many casual customers in and around villages of Anthiyur T.K. Our maximum customers are village based tribal people and living in interial Bhargur forest area which is tail end of the Indian Society Many villagers are not connected with regular banking facility. We are doing business on cash & carry basis and also credit basis to some extent. All our regular collections have been deposited to Bank on day to day basis and the said deposited amounts were transferred to our suppliers via NEFT, RTGS, cheque and not by cash. Very thin margin of profit has been provided by our suppliers on sale.

However, Id. Assessing Officer on verification of cash book for the financial year 2016-2017 found that assessee had a cash balance of Rs. 10,15,184/- as on 08.11.2016 and the took a view that assessee accepted SBN notes after 09.11.2016 amounting to Rs.10,04,316/- and added the same to the total income as unexplained money u/s.69A of the Act.

3. Aggrieved assessee preferred an appeal before the Id.CIT(A), who dismissed the appeal of assessee on merits although assessee replied only once despite five notices issued by the Id. CIT(A). Aggrieved, Assessee is in further appeal before us.

4. Before us also, none appeared for the assessee. The Id. Departmental Representative stated that the assessee is habitual defaulter in appearing before the appellate authority hence no lenient view is to be taken in this case and prayed for dismissal of appeal.

5. Though we concur with the submissions of Ld. Sr. DR however, keeping in mind the principle of natural justice and grant another opportunity of hearing to the assessee. Accordingly, the impugned order is set aside and the appeal is restored back to the file of Ld. CIT(A) for fresh adjudication on merits after affording proper

opportunity of hearing to the assessee. The assessee is directed to substantiate its case forthwith without any fail, failing which Ld. CIT(A) shall be at liberty to proceed with the disposal of the appeal on merits.

6 In the result, appeal filed by the assessee is allowed for statistical purpose.

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

Sd/-

(मनोज कुमार अग्रवाल)

(**MANOJ KUMAR AGGARWAL**)

लेखा सदस्य / **ACCOUNTANT MEMBER**

Sd/-

(मनु कुमार गिरि)

(**MANU KUMAR GIRI**)

न्यायिक सदस्य / **JUDICIAL MEMBER**

चेन्नई Chennai:

दिनांक Dated : 18-10-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF