

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जगदीश, लेखासदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2172/Chny/2024
निर्धारण वर्ष /Assessment Year: 2015-16

Palani Selvam Shanmuga Ananth,
2A, Jayaraj Road,
Tuticorin – 628 002.
[PAN: AHQPA 4868B]

The Income Tax Officer,
Ward-2,
Tuticorn.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri S. Sridhar, Advocate
: Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 21.10.2024

घोषणा की तारीख /Date of Pronouncement

: 21.10.2024

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee is against the order of Learned Commissioner of Income Tax, Appeal, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 15.12.2023 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s.147 r.w.s 144 r.w.s 144B of the Income Tax Act, 1961 (hereinafter "the Act") on 23.12.2016.

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2. There is a delay of 33 days in filing the appeal by the assessee. The assessee has filed condonation petition stating the reasons for delay in filing the appeal. We have considered the petition of delay in filing the appeal and satisfied that there was sufficient cause for not filing the appeal within the prescribed time limit. Hence, the delay is condoned accordingly.

3. The only effective ground of appeal in this appeal of assessee is against exparte order passed by Ld. CIT(A) confirming the addition of cash deposit of Rs. 7,06,000/- in the bank account and further estimating the income @ 8% of total turnover at Rs. 21,22,018/-.

4. The assessee is an individual engaged in the business of processing, segregating and mixing of minerals through mechanical separation using magnets. The A.O has reopened assessment on the ground that there was a cash deposit in bank account of Rs. 7,06,000/, bill of entry for imports of Rs. 3,41,47,920/- and shipping bills for exports of Rs. 2,47,22,447/- but the assessee has not filed return of income. The assessee has not complied with the notices issued, and the A.O accordingly, passed order u/s. 144 of the Act making addition on cash deposit of Rs. 7,06,000/- as unexplained cash u/s. 68 of the

Act and estimating the income @ 8% of the total turnover of Rs. 2,65,25,223/-. The assessee before Ld. CIT(A) has also not complied with the notices issued and therefore, the Ld. CIT(A) has confirmed the addition made by the A.O.

5. Before us, The Ld. Authorized Representative (A.R) of the assessee has submitted the orders of A.O and the Ld. CIT(A) passed ex-parte and therefore, one more opportunity should be provided. The Ld. A.R also relied on the order of Co-ordinate Bench of This Tribunal in his own case in ITA No.1871/Chny/2024 for A.Y 2017-18 where in interest of justice case has been remanded back to AO.

6. The Ld. Departmental Representative (DR), on the other hand, has relied on the orders of lower authorities and argued that the assessee has been non cooperating before A.O as well as Ld. CIT(A) and therefore, the appeal should be dismissed or cost should be imposed.

7. We have heard the rival submissions, and perused the materials available on record. On perusal of the orders of A.O as well as Ld. CIT(A), we find that the both orders have been passed ex-parte for the

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non-compliance by the assessee. The Ld. A.R has submitted that the Ld. CIT(A) has not decided the issue on merits, therefore the case may be remanded back to the A.O for adjudication on merits. We are of the opinion that keeping in view the principles of natural justice, the assessee be provided with another opportunity of hearing to substantiate his case before the A.O. Accordingly, we set aside the orders passed by the A.O and the Ld. CIT(A) and remit the matter back to the file of the A.O to adjudicate this appeal afresh in accordance with law, after giving reasonable opportunity to the assessee. However, considering the assessee's failure to respond the notices issued by the lower authorities, we find appropriate to impose cost. Accordingly, the assessee is directed to pay the costs of Rs. 10000/-. The same shall be paid by the assessee to Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras within a period of one month from the date of receipt of this order and produce the receipt before the A.O. We also direct the Assessee to appear before the A.O on the date of hearing without fail and furnish complete details for his fresh consideration. In view of the above, the appeal filed by the assessee is allowed for statistical purposes.

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

Order pronounced in the open Court on 21st October, 2024.

Sd/-
(महवीर सिंह)
(Mahavir Singh)
उपअध्यक्ष / Vice President

Sd/-
(जगदीश)
(Jagadish)
लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 21st October, 2024.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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