

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER
आयकर अपील सं./ ITA No.2255 /Chny/2024
निर्धारण वर्ष /Assessment Years: 2017-18

Kulandaiyappan Chinnuramakrishnan
C/o. M/s.S.Sathyanarayanan,
Advocates, F1, PRP Block – Rose Park,
No.10 Santhi Nagar,
1st Cross Adambakkam,
Chennai-600 088.
[PAN: ARUPC4515F]

Income Tax Officer,
Non-Corp Ward-3(3),
Coimbatore

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri S.Sathyanarayanan, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Mr.Chinthapalli Meher Chand, JCIT

सुनवाई की तारीख/Date of Hearing

: 22.10.2024

घोषणा की तारीख /Date of Pronouncement

: 08.11.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2023-24/1060794200(1) dated 12.02.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment years 2017-18. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 12.02.2024 passed by NFAC, Delhi.

2.0 It has been noted that there is a delay of 137 days in filing of this appeal before the tribunal. In its affidavit the assessee has pleaded that it is suffering from various illness post Covid-19, and could not file the appeal in time. We have considered the justification put forth by the assessee and we are satisfied with their adequacy. Accordingly, we hereby condone the delay and proceed to adjudicate this appeal.

3.0 At the outset the Ld. Counsel for the assessee informed that the Ld. First Appellate Authority has passed an ex-parte order thereby confirming the assessment order u/s 143(3) dated 20.12.2019 and that the appeal was dismissed on account of non-appearance. The Ld. AO had made an addition of Rs.17,50,000/- on account of unexplained cash deposits made during demonetization period. Before the Ld. First Appellate Authority the assessee filed appeal with statement of facts and accompanying documents. The Ld. CIT(A) however chose to dismiss the appeal on the premise on non-appearance. The Ld. Counsel for the assessee pleaded that the assessee has been denied reasonable opportunity of being heard. It was submitted that the assessee is 75 year old man having several health issues and hence could not make effective timely coordination with the chartered account leading to delay in filing of appeal and also deficient compliance before the Ld. CIT(A). It was accordingly prayed that one more chance be accorded and the matter

may be considered for restoration to Ld. CIT(A) for fresh adjudication. The Ld. Counsel for the assessee assured that full compliance would be made now. The Ld. DR proposed that cost may be levied upon the assessee.

4.0 We have heard the rival submissions in the light of material available on records. It is trite law that no litigant benefits by non-prosecution of its case. We find sufficient force in the pleadings of the assessee as to why it could not prosecute its case. We have also noted that apart from merely harping on the issue of non-appearance by the assessee the Ld. CIT(A) has not touched upon merits of the case.

5.0 We are therefore of the view that ends of justice would be met if the case is set aside to the file of the Ld. CIT(A) for readjudication after giving opportunities of being heard to the assessee and to pass a speaking order. He will be at liberty to call for any remand report from the Ld. AO if warranted by the facts of the case. The assessee shall be bound to comply to all the notices and details called by the Ld. CIT(A). Any non-compliance from the assessee side shall be adversely viewed. Accordingly, we set aside the order of the Ld. First Appellate Authority and direct him to readjudicate the matter de novo. Accordingly, the

grounds of appeal raised by the assessee are allowed for statistical purposes.

6.0 In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 8th, November-2024 at Chennai.

Sd/-

(एबी टी. वर्की)

(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 8th, November-2024.

KB/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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