

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.2276 /Chny/2024  
निर्धारण वर्ष /Assessment Years: 2018-19

Vel Murugan Timber Traders,  
No.16-1B, Red Hills Road,  
Kathirvedu,  
Chennai-600099.  
[PAN: AACFV8475C]

Deputy Commissioner of Income Tax,  
Non-Corp Circle-10(1)  
Chennai

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri Balasubramanian, 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/250/2024-25/1067043180(1) dated 26.07.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment years 2018-19. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 26.07.2024 passed by NFAC, Delhi.

2.0 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 13.04.2021 and that the appeal was dismissed on account of non-appearance. The assessee a trader of woods for which it imports and makes purchase of coal. The AO made an addition of Rs.34,78,262/- by not accepting its business results. 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 email id of the earlier chartered account of the assessee had been given and that the said chartered account did not respond to the impugned notices. The assessee confirmed that it has now given a new email id. It was accordingly prayed that 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.

3.0 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. We have also noted that the assessee has submitted that the Ld. AO in para-5.3 and 5.4 of his order also indicated that complete details were not forthcoming from the assessee. As a result of which he had estimated the business profits over impugned additions.

4.0 We are therefore of the view that ends of justice would be met if the assessee is given one last opportunity to present its case and file supporting evidences. Accordingly, we set aside the order of authorities below. We have also noted that the Ld. AO in para-5.3 to 5.6 of his order has alluded towards non-submission of details by the assessee leading to his drawing of conclusions. The assessing officer is the primary authority to determine taxable income of a tax payer by collecting and collecting evidences. Accordingly, placing reliance upon the decision in the case of TIN box 249 ITR 216 the matter is restored to the file of the AO for

assessment de novo. He is directed to give due opportunities of being heard to the assessee. The assessee is directed to make complete and correct compliance towards the notices issued by the AO. Any non-compliance from the assessee side shall be adversely viewed.

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

Order pronounced on 8<sup>th</sup>, 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: 8<sup>th</sup>, November-2024.

KB/-

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

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