

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.: **2157/Chny/2024**
निर्धारण वर्ष / Assessment Year: 2017-18

Malliswari,
179, Sai Kirupa Nagar,
Janappan Chatram,
Azhinjivakkam,
Tiruvallur – 600 067.

[PAN: BWHPM-1357-A]

(अपीलार्थी/Appellant)

Income Tax Officer,
v. Non Corp Ward -10(3),
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Ms. Nidhi D Jain, CA
प्रत्यर्थी की ओर से/Respondent by : Ms. Gouthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing : 22.10.2024
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 19.06.2024 and pertains to assessment year 2017-18.

2. At the outset, the Id.AR for the assessee took us through the exparte order of the AO dated 07.11.2019 which has been

passed u/s.144 of the Act, wherein the assessee is an individual, had not filed return of income u/s.139(1) or 139(4) of the Act for the assessment year 2017-18. As per the information available with the department the assessee had deposited cash to the tune of Rs.18,52,000/- during the demonetisation period in Lakshmi Vilas Bank, Chennai. The notice u/s.142(1) was issued to assessee on 19.01.2018 requesting to file the return of income but not complied with. The department had issued a notice u/s.133(6) of the Act to the bank and obtained the details of deposit made to bank account and found that Rs.38,77,122/- was deposited during the A.Y. 2017-18. Further, the AO issued notices by giving many opportunities and also SCN u/s.144 on various dates to the assessee along with notice of summon u/s.131 of the Act. However, assessee chose to be silent by non-compliance. In response to notice dated 12.09.2019, the assessee gave certain details, which were incomplete and not convinced to the AO. Since, the assessee did not participate in the assessment proceedings, the AO passed exparte order u/s. 144 of the Act, with the available details / information considering the entire deposit of Rs.38,77,122/- as unexplained money u/s. 69A of the Act and brought to tax. Aggrieved by the order of the AO, the assessee preferred an appeal before the Id.CIT(A), NFAC with a delay.

3. The Id.CIT(A) dismissed the appeal due to non-prosecution of the appeal by the assessee, even after providing many opportunities to the assessee by passing an order dated 19/06/2024. Aggrieved by the order of the Id.CIT(A), the assessee preferred an appeal before us.

4. The Id.AR for the assessee submitted that the assessee is an aged individual and the AO and that of the Ld.CIT(A) have passed orders without the participation of the assessee and thereby prayed for providing one more opportunity by remanding the case to AO for denovo assessment.

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

6. We have heard the rival contentions and gone through the materials available on record and orders of the authorities below. We note that the assessment order passed by the AO was exparte and the Id.CIT(A) also has dismissed the appeal without participation of the assessee in the appeal proceedings. Since, exparte order has been passed by the AO 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.

7. 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 – Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF