

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' 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.1756/Chny/2024
निर्धारण वर्ष/Assessment Year: 2016-17

Jayasakthi Knit Wear, 3/95, Thanneerpandal Colony, Cheyur Road, Karukkampalayam B.O. Avinashi, Tirupur-641 654.	v.	The ITO, Ward-1(4), Tirupur.
[PAN: AAFFJ 4343 J]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.S. Sridhar, Advocate (Erode)
प्रत्यर्थी की ओर से /Respondent by	:	Ms. Gouthami Manivasagam, JCIT
सुनवाईकीतारीख/Date of Hearing	:	26.09.2024
घोषणाकीतारीख /Date of Pronouncement	:	13.11.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals), (hereinafter in short 'the Ld.CIT(A)'), NFAC, Delhi, dated 19.04.2024 for the Assessment Year (hereinafter in short 'AY') 2016-17 confirming the penalty levied by the



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AO u/s.271(1)(c) of the Income Tax Act, 1961 (hereinafter in short 'the Act').

2. At the outset, the Ld.AR of the assessee submitted that penalty has been imposed upon it after the Assessment Order dated 17.03.2022 was passed by AO and that the assessee had duly preferred an appeal before the Ld CIT(A) assailing the Assessment Order [*passed by the Faceless Assessment dated 17.03.2022 for AY 2016-17 passed u/s.147 read with section 144 of the Income Tax Act, 1961 (hereinafter in short "the Act") i.e. the quantum assessment order*]. And brought to our notice that assessee pleaded before Ld CIT(A) to keep the penalty appeal in abeyance till the quantum appeal is decided by him. However, the Ld.CIT(A) has passed the impugned order disposing of the appeal against imposing of the penalty order u/s.271(1)(c) of the Act and didn't decide the quantum assessment which according to assessee, ought to have been adjudicated by the Ld.CIT(A) first before adjudicating the penalty. And pursuant to the impugned action of the Ld.CIT(A) passing the impugned order confirming penalty as noted supra, the assessee has preferred rectification application before the Ld.CIT(A) and pleaded that Ld.CIT(A) may be directed to decide the quantum appeal first and thereafter decide the penalty since the decision in quantum appeal has direct bearing on the penalty imposed by AO [which is informed to us be still pending before the Ld.CIT(A)].



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3. Since the penalty levied is emanating from the quantum assessment and since, the quantum appeal is still pending before the Ld.CIT(A) as noted supra, and has bearing on the penalty as contented by assessee for the interest of natural justice and fair play, we set-aside the impugned order of the Ld.CIT(A) and direct him to pass orders [in the appeal preferred against levy of penalty u/s.271(1)(c) of the Act] after deciding the quantum appeal of the assessee for AY 2016-17. And the assessee is at liberty to raise all the issues before the Ld.CIT(A) and the Ld.CIT(A) to decide the penalty appeal after passing/adjudicating the grounds of appeal preferred by the assessee against the assessment order dated 17.03.2022 for AY 2016-17.

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

Order pronounced on the 13th day of November, 2024, in Chennai.

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 13th November, 2024.
TLN, Sr.PS



ITA No.1756/Chny/2024 (AY 2016-17)
Jayasakthi Knit Wear

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आदेश की प्रतिलिपि अग्रेषित / Copy to:

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