

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' 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 Nos.1336/Chny/2024
निर्धारण वर्ष /Assessment Years: 2018-19

Natarajan,
1B and 1D, Silver palm avenue,
Ishwarya Nagar,
Kilayanamabakkam,
Chennai-600 095.
[PAN: ACSPN2467N]

Asst.Commissioner of Income Tax,
Non-Corp.Circle-8(1),
Chennai

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: None

प्रत्यर्थी की ओर से /Respondent by

: Shri Keerthi Narayanan, JCIT

सुनवाई की तारीख/Date of Hearing

: 03.09.2024

घोषणा की तारीख /Date of Pronouncement

: 13.11.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2022-23/1043638319(1) dated 28.06.2022 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 28.06.2022 passed by NFAC, Delhi.

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2.0 It has been noted that there is a delay of 673 days in the case, in filing of this appeal before the tribunal. In its affidavit the assessee has pleaded that the assessee is a cancer patient and was having adverse medical issues which contributed to the delay. All these activities contributed to the delay which was neither willful nor wanton. The assessee submitted that there will not be case of any non-compliance now. We have considered the justification put forth by the assessee and we are satisfied with their adequacy. We are also conscious of the fact that no litigant gains by intentionally delaying its own matters. The Ld. DR did not pose any serious objections to the delay. Accordingly, we hereby condone the delay and proceed to adjudicate this appeal.

3.0 The only issue under consideration is the addition of Rs.8,25,275/- made by the Ld. AO through its assessment order dated 24.12.2020. The Ld. Counsel for the assessed informed that the impugned addition was made by the Ld. AO on the premise that the impugned addition of Rs.8,25,275/- was on account of disallowance of EPF and ESI employers contribution and for which there was no corresponding salary payment noted. The Ld. Counsel for the assessee informed that the assessee engaged in the business of selling electrical goods and working as electrical contractor in the name and style of radiant engineering. It was submitted that by an inadvertent mistake the

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amount of salary was wrongly put under the head customs duties and taxes paid in Column-7 (i) of ITR form. It was stated that the assessee had paid salary to its employees who were working on site of other companies like Chennai Metro Rail Limited, Royal Enfield Ltd from whom electrical contract work is taken. The Ld. Counsel for the assessee further indicated that it had revised correct details through a belated filed return. It was accordingly pleaded that the matter be restored to the file of the Ld. AO to verify the facts and readjudicate the matter. The Ld. DR relied upon order of the authorities below.

4.0 We have heard rival submissions in the light of material available on records. We have noted that there exists some veracity in the claims of the assessee. The assessee has done a business and shown turnover of nearly Rs.16.97Cr in its profit and loss account for the year ended 31.03.2018. The same cannot be achieved without any employees. In fact the profit and loss account also shows staff welfare expenses are Rs. 6 lakhs app. We are of the view that ends of justice would be met if the assessee is given one last opportunity to present its case and filed supporting evidences before the Ld.AO. 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. We therefore set aside the order of lower authorities on this issue and we direct the Ld. AO

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to readjudicate the matter de novo by examining the matter afresh. The Ld. AO shall give opportunities of being heard to the assessee and it shall be bounden upon the assessee to comply with the notices issued by the Ld. AO. Any non-compliance on the part of the assessee can be adversely viewed. Accordingly, all the grounds of appeal raised by the assessee on this issue are allowed for statistical purposes.

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

Order pronounced on 13th, 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: 13th, 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