

आयकर अपीलिय 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.388 & 389/Chny/2024
निर्धारण वर्ष/Assessment Years: 2013-14 & 2014-15

Mr.Vijay, No.H3, Tamil Nadu Housing Board, FCI GodownRoad, Ganapathy, Coimbatore-641 006.	v.	The ITO, Non-Corporate Ward-2(1), Coimbatore.
[PAN: ALFPV 6088 F]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.S. Sridhar, Advocate (Erode)
प्रत्यर्थी की ओर से /Respondent by	:	Dr. Samuel Pitta, JCIT
सुनवाईकीतारीख/Date of Hearing	:	12.09.2024
घोषणाकीतारीख /Date of Pronouncement	:	20.11.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

These are appeals preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 11.01.2024 for the Assessment Year (hereinafter in short "AY") 2013-14 & 2014-15.

2. The main grievance of the assessee is against the action of the Ld.CIT(A) confirming the action of the AO without giving proper



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opportunity to the assessee. Both parties agreed that the additions made by the AO in both the assessment years are identical and therefore, the decision in one of the appeal would decide the fate of the other appeal. Therefore, the appeal pertaining to AY 2013-14 is taken up as the lead case.

3. The brief facts are that the assessee is an individual and filed his return of income (RoI) for AY 2013-14 on 06.03.2014 declaring presumptive business income of Rs.1,92,000/-. The AO re-opened the assessment by issuing notice u/s.148 of the Act on 31.03.2021 noticing that the assessee had deposited in his bank account an amount of Rs.61,71,084/-. The AO asked about the nature and source of the amount deposited in his bank account and the assessee submitted that he has received the amount from Association of Person (AOP) called Devraj Associates. Pursuant to the reply of the assessee, the AO issued notice u/s.133(6) of the Act to Devraj Associates on 07.03.2022 and received reply from them dated 10.03.2022 wherein the said Devraj Associates admitted that they have given an amount of Rs.61,71,084/- for procuring land for developing the same. According to the AO, there was per-se contradictions in the reply of Devraj Associates vis-à-vis that of the assessee. Therefore, the AO again



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issued notice u/s.133(6) of the Act to Devraj Associates on 14.03.2022 to furnish relevant details [details of land, ledger relevant ledger accounts, etc.] to ascertain the correct facts. However, the AO finding no response from Devraj Associates proceeded to frame the assessment on 25.03.2022 for AY 2013-14 [and on 29.03.2022 for AY 2014-15] by drawing adverse inference against the assessee for AY 2013-14 and added Rs.61,71,084/- u/s.69 of the Act; and similar addition was made for AY 2014-15. The Ld.AR of the assessee pointed out that Devraj Associates didn't get notice u/s 133(6) dated 14.03.2022 (supra) calling for certain clarification from them and hence, they couldn't respond to AO. Therefore, according to the Ld.AR, assessee didn't get proper opportunity before the AO and therefore, he pleaded that one more opportunity may be granted to him citing the decision in the case of the Hon'ble Supreme Court in the case of TIN Box Co. v. CIT reported in [2001] 249 ITR 216 (SC). After going through the records, we find force in the submission,; And we note that the assessee has brought to the notice of the AO that the source of the amount deposited in bank account was from the AOP called Devraj Associates and pursuant to which, the AO had issued notice u/s.133(6) to them on 07.03.2022 which was responded by them and they admitted to have confirmed, giving money to assessee



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for procuring land for developing. Not satisfied with the reply of the Devraj Associates since there was certain contradictions, the AO again issued another notice u/s.133(6) on 14.03.2022 and since, Devraj Associates failed to file documents called for, the AO has drawn adverse inference against the assessee. The assessee submits that Devraj Associates didn't get the purported notice u/s.133(6) on 14.03.2022 and therefore, couldn't reply and given an opportunity, they will be able to furnish all the relevant documents to substantiate *nature and source* of the deposits in the assessee's bank accounts. In the light of the discussion we note that there is a violation of natural justice and therefore, for the ends of justice and fair play, we set aside both the impugned orders of the Ld.CIT(A) for AY 2013-14 & 2014-15 and restore back to the file of the AO for *de novo* assessment. The Ld.AR has undertaken to participate in the assessment proceedings and file (i) all the relevant documents to prove the *nature and source* of the deposits in the assessee's bank accounts and (ii) written submissions and (iii) also relevant documents called for from Devraj Associates on 14.03.2022 [details of land, ledger relevant ledger accounts, etc.]. And the AO to frame fresh assessment in accordance to law after hearing the assessee and needless to say that the AO is at



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(AYs 2013-14 & 2014-15)
Mr.Vijay

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liberty to call for any other relevant document to adjudicate the issue regarding amount deposited in assessee's bank account for both years.

4. In the result, both appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on the 20th 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: 20th November, 2024.

TLN, Sr.PS

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