

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जगदीश, लेखक सदस्य के समक्ष  
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.1896 & 1897/Chny/2024  
निर्धारण वर्ष /Assessment Years: 2018-19

P.E 64 Kodumudi Block T & P The Income Tax Officer,  
Servants Co-op. T & C Society Ltd., Vs. Ward-2(1),  
Kodumudi – 638151. Erode.  
[PAN: AADAP 8204B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri A. Vijayalakshmi, C.A (Tirupur)  
प्रत्यर्थी की ओर से /Respondent by : Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 24.10.2024  
घोषणकी तारीख /Date of Pronouncement : 24.10.2024

**आदेश / ORDER**

**PER JAGADISH, A.M :**

Aforesaid appeals filed by the assessee for Assessment Years 2018-19 are against the orders of Learned Commissioner of Income Tax, National Faceless Appeal Centre (NFAC), Delhi [hereinafter "CIT(A)"] dated 14.03.2024 & 31.05.2024 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s.144 r.w.s 144B of the Income Tax Act, 1961 (hereinafter "the Act") on 29.04.2021.

2. There is a delay of 60 days in filing the appeal by the assessee in ITA No.1896/Chny/2024. The assessee has filed condonation petition stating the reasons for delay in filing the appeal. We have considered the petition of delay in filing the appeal and satisfied that there was sufficient cause for not filing the appeal within the prescribed time limit. Hence, the delay is condoned accordingly.

**ITA No.1896/Chny/2024**

3. The only effective ground of appeal in this appeal of assessee is against confirming the cash deposit of Rs. 96,91,399/- by the Ld. CIT(A).

4. The assessee is a co-operative society and filed return of income electronically on 28.09.2018 declaring total income at Nil after claiming exemption u/s. 80P of the Act. The case was selected for scrutiny and notices were issued u/s. 142(1) of the Act but the assessee has not complied with the notices. The A.O therefore, passed order u/s. 144 of the Act adding the cash deposit in the total income. The Ld. CIT(A) has issued notice on 28.09.2022 and 22.02.2024, but the assessee has not availed the opportunity and therefore, the Ld. CIT(A) has passed ex-parte order confirming the addition made by A.O.

5. The Ld. Authorized Representative (A.R) of the assessee before us has submitted that cash deposit is from members and submitted copy of day book, bank statement and audit report in support of its contention. The Ld AR requested that one more opportunity may be provided to explain before the Ld AO in the interest of justice as the assessment order and order of Ld. CIT(A) have been passed ex-parte.

6. The Ld. Departmental Representative (DR), on the other hand, has argued that the assessee has been non-complied before A.O as well as Ld. CIT(A) therefore, the assessee's prayer should be rejected or cost may be imposed.

7. We have heard the rival submissions, and perused the materials available on record. The assessment order in this case has been passed u/s. 144 of the Act and the Ld. CIT(A) has also passed order ex-parte confirming the addition of unexplained cash credits of Rs.96,91,399/-. We find that the assessee has been negligent and non cooperative before the A.O as well as Ld. CIT(A). We, therefore of the opinion that keeping in view the principles of natural justice, the assessee be provided with another opportunity of hearing to substantiate his case before the A.O subject to payment of costs of

Rs. 25,000/-. The same shall be paid by the assessee to Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras within a period of one month from the date of receipt of this order and produce the receipt before the A.O. Accordingly, we set aside the order passed by the A.O and remit the matter back to the file of the A.O to adjudicate this appeal afresh in accordance with law, after giving reasonable opportunity to the assessee. We also direct the assessee to appear before the A.O on the date of hearing without fail. In view of the above, the appeal filed by the assessee is allowed for statistical purposes.

**ITA No.1897/Chny/2024:**

8. The A.O has levied penalty u/s 271AAC in respect of addition of cash deposit made u/s. 58 of the Act in the assessment order. As we have already set aside the assessment order, the penalty levied u/s. 271AAC(1) of the Act also set aside as it does not have leg to stand. However, we clarify that the A.O will be free to initiate fresh penalty during set aside proceeding. In view of this, the appeal filed by the assessee is allowed for statistical purposes.

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

*Order pronounced in the Open Court on 24<sup>th</sup> October, 2024.*

**Sd/-**  
**(महवीर सिंह)**  
**(Mahavir Singh)**  
**उपध्यक्ष / Vice President**

**Sd/-**  
**(जगदीश)**  
**(Jagadish)**  
**लेखा सदस्य / Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 24<sup>th</sup> October, 2024.

EDN/-

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

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