

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND**  
**SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1192/Chny/2023  
निर्धारण वर्ष/Assessment Year: 2012-13

Mr. Parthasarathy Ariraman, C-44, Sarojini Naidu Salai, Block-12, Neyveli, Cuddalore-607 807.	v.	The ITO, Ward-3, Cuddalore.
[PAN: ADYPA 7858 D]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.S. Sridhar, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Ms.R. Anita, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	26.09.2024
घोषणाकीतारीख /Date of Pronouncement	:	04.12.2024

**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)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 11.09.2023 for the Assessment Year (hereinafter in short "AY") 2012-13.

2. At the outset, the Ld.AR of the assessee doesn't press Ground No.2 which is related to the legal issue against re-opening. Therefore, the same stands dismissed.



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**3.** According to the Ld.AR, even though, '16' grounds have been preferred by the assessee, he submits that Ground No.4-9 are the issues related to merits of the additions made by the AO/Ld.CIT(A) which need only to be examined. Hence, other grounds stands dismissed.

**4.** The Ld.AR pointed out that Ground No.4 is related to an addition made by the AO to the tune of Rs.26,75,000/- being the sale consideration from sale of agricultural land situated at Bahour. According to the Ld.AR, such an addition has been made mainly on the strength of report submitted by the Inspector of the Department and drew our attention to Para No.8 of the Assessment Order. According to the Ld.AR, the assessee was not provided with a copy of the Inspector's Report dated 06.12.2019 which states that the land in question was situated at 1.2 KMs from the limits of Cuddalore Municipality. According to the Ld.AR, without giving the copy of the Inspector Report, the adverse inference drawn by the AO against the assessee's claim that the property in question does not fall within 8 kms/beyond 8 kms limits of the nearest municipality (Pondicherry Municipality) violates the principles of natural justice. Moreover, according to the Ld.AR, the show cause notice dated 16.12.2019 issued by the AO didn't mention about the purported Inspector's Report and therefore, it can be see that the AO kept the report away from the knowledge of assessee, which vitiates the adverse findings of the AO and since, there was gross violation of natural justice,



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he pleaded that the assessee may be granted an opportunity before the AO de novo on this issue.

**5.** Per contra, the Ld.DR pointed out that the AO had in fact given show cause notice to the assessee on 16.12.2019 (*after getting copy of the Inspector Report dated 06.12.2019*). Therefore, it may be presumed that assessee had been given the contents of the Inspector's Report. Therefore, according to the Ld.DR, there was no violation of natural justice as alleged by the assessee. Therefore, he doesn't want us to restore this issue back to the AO.

**6.** Having gone through the records and after hearing the parties, we note from a bare reading of the Para Nos.8-10.3, we don't find any averments made by the AO to the extent that either copy of the Inspector's Report dated 06.12.2019 or the contents of the same has been supplied to the assessee. It is true that a show cause notice was issued on 16.12.2019 to the assessee and it is noted that the assessee asserted that its land in question was an agricultural land situated at Kurivintham village, Bahour Commune, Pondicherry, which was situated 8 km away from the Pondicherry Municipality. Be that as it may, we find that in this case, the AO has heavily relied upon the Inspector's Report as well as other reasons to take a view that property in question was not an agricultural land and therefore, he made an addition of Rs.26,75,000/-



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u/s.69 of the Act. Therefore, in the light of the aforesaid discussion, we find force in the contention of the Ld.AR that there was a violation of natural justice i.e. omission on the part of the AO not to have supplied Inspector's Report dated 06.12.2019 to take adverse view against the assessee on the issue. Therefore, we set aside the impugned order of the AO and restore this issue back to the file of the AO for de novo assessment and the AO to give copy of the Inspector's Report dated 06.12.2019 and after giving proper opportunity to the assessee, to frame de novo assessment on this issue.

**7.** The next issue is against the action of the Ld.CIT(A) sustaining the addition of Rs.20 lakhs being the deposit/cash withdrawals of sale proceeds as added by the AO as unexplained money u/s.69A of the Act.

**8.** As discussed supra, this issue is interconnected viz., according to assessee, Rs.20 lakhs cash which has been withdrawn from bank, was deposited earlier by assessee in his bank-account. According to assessee, he has withdrawn cash of Rs.20 lakhs on 03.06.2011 for securing admission for his daughter in Medical College, but didn't fructify, so he re-deposited the same on 11.08.2011. Thus he contest the addition u/s 69A of the Act. Be that as it may, since the main plea of the assessee about the source of Rs.20,75,000/- is out of sale of land in question (supra) which has been restored to the file of AO for de novo assessment,



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Mr. Parthasarathy Ariraman

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therefore, we set aside this issue also back to the file of the AO for de novo assessment and the assessee is at liberty to file written submissions/relevant documents before the AO and the AO to frame assessment in accordance to law after hearing the assessee.

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

Order pronounced on the 04<sup>th</sup> day of December, 2024, in Chennai.

**Sd/-**

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**

(एबी टी. वर्की)

**(ABY T. VARKEY)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 04<sup>th</sup> December, 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