

**आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

**माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER**

**आयकरअपील सं./ ITA No.2620/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-2018)**

Shahulhameed Thivanoli,
2/187, Mela Pallivasal Street,
Vallam Post, Shencottah Taluk,
Tirunelveli 627 817.

Vs. The Income Tax Officer,
Ward 4,
Tirunelveli.

[PAN: AGIPT 4190N]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri R. Venkata Raman, C.A.,

प्रत्यर्थी की ओर से /Respondent by

: Ms. D. Komali Krishna, IRS, CIT.

सुनवाई की तारीख/Date of Hearing

: 17.12.2024

घोषणा की तारीख /Date of Pronouncement

: 19.12.2024

आदेश / ORDER

PER MANU KUMAR GIRI (Judicial Member)

This appeal filed by the assessee is directed against the order of the Ld. Commissioner of Income Tax(Appeals) (NFAC), DELHI [CIT(A)] dated 28.05.2024 for Assessment Year 2017-18.

2. The registry has noted delay of 79 days in filing the appeal. Considering the period of delay and reasons stated in the condonation application which is

supported by an affidavit of Assessee, we condone the delay and admit the appeal for adjudication.

3. Brief facts of the case are that the assessee is an individual and had filed his return of income on 23.08.2019 at an income of Rs.3,24,990/- belatedly for the assessment year 2017-18. The case of the assessee re-opened on the basis of information available that the assessee had made cash deposit(credit) of Rs. 1,83,64,770/- in his bank accounts during the F.Y. 2016-17 relevant to A.Y. 2017-18. In the return of income filed for the Asstt Year 2017-18 the assessee has not shown the banking transaction. The source of income of the cash deposit has not verified. After obtaining necessary approval from the competent authority, notice u/s 148 of the Act was issued on 21.11.2019 to the assessee. The assessee did not comply with the notice. Thereafter, notice u/s 142(1) of the Act was issued on 16.01.2020. No compliance was made by the assessee. Since, the assessee has failed to discharge his onus as laid upon him in the Act and no explanation with regard to source of these cash deposits, it was presumed that the assessee has nothing to say in respect of cash deposit(credit) of Rs. 1,83,64,770/- in his bank account during the year. Accordingly, a sum of Rs.1,83,64,770/- treating as unexplained cash deposit u/s 68 of the Act was added in the total income of the assessee. The amount of tax was calculated @ 60% as per Section 115BBE of the Act. Assessee further challenged the ex-parte order of assessment u/s 147 r.w.s 144 of the Act before the Id.CIT(A) who confirmed the order of the AO on merits.

Although assessee was not able to represent before the Id.CIT(A) properly in short duration of notices issued. Aggrieved, assessee is in appeal before us.

4. Before the Id. Counsel for assessee submitted that the AO has not served notices or given sufficient time to file evidence and documents to substantiate his explanation. The Id.DR stated that the assessee is habitual defaulter in appearing before the appellate authority hence no lenient view is to be taken in this case and prayed for dismissal of appeal.

5. Though we concur with the submissions of Ld. Sr. DR however, keeping in mind the principle of natural justice and grant another opportunity of hearing to the assessee. We also find that assessee has not properly represented before the Id.CIT(A) despite notices. Accordingly, the impugned order is set aside and the appeal is restored back to the file of Ld. AO for denovo assessment on merits subject to cost of Rs.5000/- which shall be deposited by the assessee within 30 days from the date of receipt of this order to 'Tamil Nadu State Legal Services Authority' at Hon'ble High Court of Madras. The proof of the same will be furnished by the Assessee before Ld.AO whose shall proceed for denovo assessment after affording proper opportunity of hearing to the assessee. The assessee is directed to substantiate its case with all evidence, confirmations and documents, if any, forthwith without any fail, failing which Ld. AO shall be at liberty to proceed with the assessment proceedings on merits as per law.

6. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 19th day of December, 2024

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई Chennai:

दिनांक Dated : 19-12-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

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

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)