

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

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2788 /Chny/2024
निर्धारण वर्ष /Assessment Year: 2017-18

Sathyamoorthy Geetha,
Old No.70, New No.15,
Kumaran Colony,
First Street, Vadapalani,
Chennai-600 026.
[PAN: BOTPG5781E]

The Income Tax Officer,
Vs. Non-Corporate Ward-13(4),
Chennai

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by : Ms.Samyuktha Banusekar,
Advocate
प्रत्यर्थी की ओर से / Revenue by : Ms.V.Aswathy, JCIT
सुनवाई की तारीख/Date of Hearing : 18.12.2024
घोषणा की तारीख /Date of Pronouncement : 23.12.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2024-25/1068190093(1) dated 30.08.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment years 2017-18. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 30.08.2024 passed by NFAC, Delhi.

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2.0 At the outset, the Ld. Counsel for the assessee submitted that both the lower authorities the Ld.AO as well as Ld.CIT(A) has passed ex-parte orders. It was submitted that the only issue under consideration is an addition of Rs.17,83,540/- on account of cash deposits allegedly received by the assessee from her sister and mother of Rs. 8 lakhs each as well as of Rs.1,83,540/- the own savings. 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.

3.0 We have heard rival submissions in the light of material available on records. As per facts recorded by the Ld. AO in his order 20.09.2019 information was received that the assessee had made cash deposits of Rs.17,83,540/- in her bank account maintained with Union Bank of India. The assessee had not filed return of income for 2017-18. No compliance was made to the notices u/s 142(1), 142(2). Before the Ld. AO u/s 131, the assessee deposed that she does not have any source of income. Before the Ld. AO it was submitted that the impugned cash deposits belongs to her sister namely Ms. Kamala, a nurse by profession and a cancer patient, and gift from mother namely Ms. Saraswathy. As the assessee failed to provide any documentary evidence in support of her contentions, the Ld. AO made the impugned

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addition. Before the Ld. CIT(A) also there was no adequate response from the assessee. Consequently, in view of continued non submission of any cogent supporting evidences, the Ld. CIT(A) only allowed relief of Rs.7,01,040/- to the assessee being non-SBN, small denomination notes holding it as small savings and confirmed the balance amount Rs.10,82,500/-.

4.0 We have noted that inadequate submission of details and evidences, before the lower authorities qua sources of cash deposits in assessee's bank account during demonetization period lies at the core of the controversy. Before us the Ld.Counsel for the assessee filed an affidavit of the assessee explaining her family history and the sources of cash along with some evidences comprising PPF pass book, Bank pass book etc. The assessing officer is the primary authority under the income tax act to be examine facts of a case in the light of available evidences before determining correct taxable income of a tax payer. We are therefore of the view that ends of justice would be met if the assessee is given one last opportunity to present its case and file all supporting evidences before the Ld.AO. We therefore set aside the order of lower authorities on this issue and we direct the Ld. AO to readjudicate the matter de novo by examining the matter afresh in accordance with law and by passing a speaking order. Reliance in this regard is placed upon

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the decision of Hon'ble Apex Court in the case of TIN box 249 ITR 216. 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 23rd, December-2024 at Chennai

Sd/-
(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 23rd, December-2024.

KB/-

Sd/-
(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

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