

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

**माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं
माननीय श्री अमिताभ शुक्ला . लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER
AND HON'BLE SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

**आयकर अपील सं./ ITA No.2759/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-2018)**

Rajaram Seenivasa Ragavan,
No.24, V.K.M. Street,
Sivakasi 626 123.

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

[PAN: AVXPS 0467P]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri N.V. Narayanan, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Ms. V. Aswathy, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing

: 18.12.2024

घोषणा की तारीख /Date of Pronouncement

: 23.12.2024

आदेश / ORDER

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 30.08.2024 for Assessment Year 2017-18.

2. Brief facts of the case are that the assessee is an individual engaged in the business of fireworks agency. For the relevant Assessment Year, the assessee could not file the return of income due to medical treatment. The assessing officer received information that the assessee made cash deposits of Rs.38,46,000/- in his two bank accounts and therefore issued notice under section 142(1) of the Income

Tax Act, 1961 (in short "the Act") dated 29.01.2018 and again on 21.08.2019. In response to the above notice dated 21.08.2019, the assessee filed his return of income on 27.08.2019 admitting total income of Rs.4,48,980/- under section 44AD of the Act on estimate basis. The assessing officer did not issue any notice under section 143(2) after the assessee filed his return of income. The assessing officer conducted enquiry with the bank and found that the cash deposits made was Rs.39,16,000/- and all the credits in the bank accounts including the cash deposits were Rs.1,00,97,981/- and completed the assessment under section 144 on 31.12.2019 on the ground that the assessee did not file his return of income within the time allowed in the notice under section 142(1) dated 29.01.2018. He added Rs.39,16,000/- under section 69A and estimated the income @ 8% on the remaining credits in the bank account statement at Rs.4,90,858/- and thus determined the total income at Rs.44,51,958/-. Aggrieved, assessee further challenged the order of assessment u/s 144 of the Act before the Id.CIT(A) who proceeded ex-parte and dismissed the appeal on merits. Aggrieved, assessee is in appeal before us.

3. Before us, the Id. Counsel for assessee submitted that the assessee has inadvertently not received the notices issued by the AO and the Id.CIT(A) hence, assessee failed to avail opportunity to file evidence and documents to substantiate his explanation regarding deposits. 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.

4. 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 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 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.

5. In the result, appeal filed by the assessee is allowed for statistical purpose. Order pronounced in the open court on 23rd day of December, 2024 at Chennai.

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य / ACCOUNTANT MEMBER

चेन्नई Chennai:

दिनांक Dated :23-12-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

Chennai/Coimbatore/Madurai/Salem. 4. विभागीयप्रतिनिधि/DR

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

3. आयकरआयुक्त/CIT,

5. गार्डफाईल/GF