

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री जगदीश, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND  
SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2340/Chny/2024  
निर्धारणवर्ष/Assessment Year: 2017-18

Mr. Krishnasamy Shanmugasundran, Dr.No.17, Railway Feeder Road, Irugur, Palladam, Coimbatore-641 103.	v.	The ITO, Non-Corporate Ward-4(1), Coimbatore.
[PAN: BXJPS 7390 N]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr. Girish Kumar, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Mrs. G. Saratha, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	21.11.2024
घोषणाकीतारीख /Date of Pronouncement	:	15.01.2025

**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 24.05.2024 for the Assessment Year (hereinafter in short "AY") 2017-18.

2. At the outset, the Ld. Counsel for the assessee submitted that there is a delay of '45' days in filing of this appeal; and the Ld Counsel explained the cause for the delay which prevented the assessee from



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filing the appeal within the time, which we find to be sufficient cause for condoning the delay, and hence, we condone the delay of '45' days and proceed to adjudicate the appeal on merits.

**3.** At the outset, the Ld.AR of the assessee pointed out that the impugned order of the Ld.CIT(A) is an ex parte order qua assessee and the Ld.CIT(A) after issuing three notices finding no response from the assessee has dismissed the appeal in limine without going into the merits of the grounds of appeal raised by the assessee. It was also brought to our notice that the AO has also passed best judgment assessment u/s.144 of the Income Tax Act, 1961 (hereinafter in short "the Act"), therefore, he prays that assessee may be given one more opportunity before the authorities below.

**4.** Per contra, the Ld.DR doesn't want us to give one more innings to the assessee.

**5.** We have heard both the parties and perused the material available on record. We note that assessment was re-opened u/s.147 of the Act after issuing notice u/s.148 of the Act on 24.03.2021 and the AO noted that the assessee failed to furnish ITR within the time limit given by him. According to the AO, notice issued by him was not responded by the assessee and therefore, he had no other alternative but to add the entire cash deposits of Rs.1,49,23,800/- deposited in the bank account and



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Rs.25,29,839/- as contract receipt, totaling Rs.1,74,52,840/- was brought to tax u/s.69 of the Act. Aggrieved, assessee preferred an appeal before the Ld.CIT(A) who also dismissed the appeal on 24.05.2024 on the ground that the assessee didn't respond to his three (3) notices issued on 15.04.2024, 09.05.2024 & 17.05.2024. It is noted that the Ld.CIT(A) has dismissed the appeal without going into the merits of grounds of appeal raised by the assessee. According to the assessee, he was engaged in the business of transportation of goods; and had '20' lorries at the beginning of business, but due to loss occurred in the business, currently has only '7' lorries. According to the assessee, he is not techno-savvy, therefore, was not aware of the notices sent to his e-mail ID which led to passing of ex parte orders by the AO as well as the Ld.CIT(A). The Ld.AR prays for one more opportunity before the assessing authority and undertakes to appear and file all relevant documents and substantiate with evidence, the queries raised by the AO and relied on the decision of the Hon'ble Supreme Court in the case of TIN Box Co. v. CIT reported in [2001] 249 ITR 216 (SC). We find that the assessee didn't participate in the assessment proceedings since notices were issued digitally/electronically and since, he was not techno-savvy was not aware of the notices. Thus, it is noted that assessee was in the dark about the assessment proceedings/appellate proceedings. In such a scenario, we are of the view that assessee should be given one more opportunity and



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Mr. Krishnasamy Shanmugasundran

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therefore, we set aside the impugned order of the Ld.CIT(A) and restore the assessment back to the file of the AO with a direction to de novo assess the income of the assessee and the Ld.AR is directed to file all relevant documents/written submissions before the AO. Since the assessee is not found to be vigilant, cost of Rs.5,000/- is imposed which the assessee should remit to the State Legal Aid Authority, Hon'ble Madras High Court, and produce necessary proof of depositing of the same before the AO and thereafter, the AO to frame the de novo assessment after hearing the assessee in accordance to law.

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

Order pronounced on the 15<sup>th</sup> day of January, 2025, in Chennai.

**Sd/-**  
**(जगदीश)**  
**(JAGADISH)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 15<sup>th</sup> January, 2025.

**TLN, Sr.PS**

**Sd/-**  
**(एबी टी. वर्की)**  
**(ABY T. VARKEY)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF