

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष  
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER  
आयकर अपील सं./ITA No.2397 /Chny/2024  
निर्धारण वर्ष /Assessment Years: 2017-18

Ramasamy Solaisamy  
No.9E, Chairman,  
NPSN Arumugam Road,  
Sivakasi Viruthunagar,  
Tamil Nadu-626 123.  
[PAN: ACVPS7427C]

Income Tax Officer,  
Non-Corp.,  
Circle-2,  
Madurai

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by

: None

प्रत्यर्थी की ओर से /Revenue by

: Ms.Sheila Parthasarthy, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 05.12.2024

घोषणा की तारीख /Date of Pronouncement

: 22.01.2025

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No. ITBA/NFAC/S/250/2024-25/1067969910(1) dated 26.08.2024 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 26.08.2024 passed by NFAC, Delhi.

2.0 The only issue arising in this appeal of assessee is regarding addition of Rs. 87,84,500/- u/s 56(2)(vii)(b) made by the Ld. AO and

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which has been confirmed by the Ld. CIT(A). On the impugned date of hearing there was no attendance from the assessee side.

3.0 The Ld. DR informed that the assessee is an individual and engaged in the business of fireworks. During the year under consideration the assessee was noted to have purchased an immovable property for Rs.38,68,000/- as against the fair market value fixed by the stamp authority of Rs.1,26,52,500/-. Invoking the provision of section 56(2)(vii)(b) the Ld.AO made the addition of Rs.87,84,500/-. Since, the assessee did not accept the fair market value fixed by the stamp authority he referred the case to the DVO for valuation. The Ld. First Appellate Authority recorded that he had issued several notices to the assessee but there was no compliance, consequently he dismissed the appeal of the assessee. The Ld. DR accordingly relied upon the order of lower authorities.

4.0 We have considered the material on records in the light of arguments put forth by the Revenue. The assessee has contended through ground of appeal that the Ld.CIT(A) has passed a non-speaking order without any application of mind. It is noted that the grounds of appeal raised by the assessee are totally confusing. It is also been contested the Ld.AO ought to have referred the matter to valuation officer. The undisputed fact of the case is that the assessee has not

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responded before the Ld.CIT(A). Through ground of appeal no.5 and 7 filed it has stated that the Ld.AO was requested to make a reference to valuation officer but he did not do. Through ground of appeal no.6, the assessee has stated that the Ld.CIT(A) failed to get the valuation report even though more than six years have lapsed. The order of the Ld.AO shows that reference was made to valuation officer. Thus there appears to be a gross mix up of facts. We have also noted that the order of the Ld.CIT(A) is not crystal clear on facts apparently on account of non-compliance by the assessee and hence decision on merits is not comprehensive. He has primarily raised the principle of “Vigilantibus non dormiantibus jura subveniunt” meaning law help those who are vigilant before dismissing assessee’s appeal for non-compliance. A report of the DVO to whom reference was made by the Ld.AO is necessary. Consequently, we are of the view that the ends of justice would be met if the Ld.CIT(A) is directed to readjudicate the appeal. Accordingly, we set aside the order of the Ld.CIT(A) and direct him to readjudicate the matter after giving due opportunity of being heard to the assessee and passing a speaking order. He will also direct the Ld.AO to submit the remand report after considering DVO’s report. The assessee shall be bound to comply with the notices of the Ld.CIT(A) and produce all documents deemed necessary. Any non-compliance from the part of the assessee shall

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adversely be viewed. According, all the grounds of appeal raised by the assessee are allowed for statistical purposes.

5.0. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 22<sup>nd</sup>, January-2025 at Chennai.

Sd/-  
( एबी टी. वर्की )

(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 22<sup>nd</sup>, January-2025.

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 – Madurai.
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF