

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

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.3010/Chny/2024
निर्धारण वर्ष /Assessment Year: 2017-18

Baraka Newland Private Limited,
No.206, Spring Field Park,
No.49, Subramanier Koil Street,
Ramanathapuram,
Coimbatore
Tamil Nadu-641045
[PAN: AAECB8391A]

Deputy Commissioner of
Income Tax,
Corporate Circle-2,
Coimbatore.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by

: Shri G.Tarun, Advocate

प्रत्यर्थी की ओर से /Revenue by

: Shri Eswaran, JCIT

सुनवाई की तारीख/Date of Hearing

: 21.01.2025

घोषणा की तारीख /Date of

: 24.01.2025

Pronouncement

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2024-25/1069148705(1) dated 26.09.2024 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 26.09.2024 passed by NFAC, Delhi.

2.0 At the very outset, we notice that the appeal of the assessee has been dismissed for non-prosecuting the case. In response to notices of hearing issued from the office of the First Appellate Authority, the assessee has not furnished his submissions or any documentary evidences. Consequently the appeal of the assessee was dismissed *in-limine* for non-prosecution without adjudicating the issue on merits.

3.0 The Id. Counsel for the assessee submitted that the hearing notices issued from the office of the First Appellate Authority was partly complied but its request for grant of adjournment was not conceded. It was prayed that in the interest of justice and equity, assessee may be provided with one more opportunity to represent his case.

4.0 The Id.DR supported the order of the CIT(A).

5.0 We have heard rival submissions and perused the materials on record. The Office of the First Appellate Authority had issued hearing notices which were part complied. It is the claim of the Id.AR that the request for adjournment was denied by the Ld.CIT(A). We have also noted that the assessee had not fully complied with the notices issued by the Ld. AO compelling him to pass orders on the basis material available on records. Be that as it may be, in the interest of justice and equity, we are of the view that assessee ought to be provided with one more opportunity to represent his case before the assessing office. The decision to remit it back to the Ld. AO is taken in view of the fact that an Assessing Officer is

the fulcrum of assessment proceedings. He possess the first right and responsibilities to examine facts of a case before arriving at his decision qua determination of taxable income in a particular case. We have also noted that the additions made require extensive examination of details by the Ld.AO before arriving at a judicious conclusion. We have also noted with respectful deference the decision of Hon'ble Apex Court in the case of TIN box 249 ITR 216 on the subject matter. Accordingly the issues raised in this appeal is restored to the files of the Ld. AO for assessment de novo after giving necessary opportunity of being heard. The assessee is directed to co-operate with the Revenue and shall not seek unnecessary adjournment. It is ordered accordingly.

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

Order pronounced on 24th, January-2025 at Chennai.

Sd/-
(जॉर्ज जॉर्ज के)
(GEORGE GEORGE K)
उपाध्यक्ष / Vice President

Sd/-
(श्री अमिताभ शुक्ला)
(AMITABH SHUKLA)
लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 24th, January-2025.

KB/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT - Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF