

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.413/Chny/2024
निर्धारणवर्ष/Assessment Year: 2016-17

M/s. Subham Developers, Ganesh Towers, II Floor, Kaliyapillai Thoppu, Behind SKS Hospital, Salem-636 004.	v.	The ITO, Ward-1(1), Salem.
[PAN: ACYFS 8015 M]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr. S. Sridhar (Erode), Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Mrs.G. Saratha, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	20.11.2024
घोषणाकीतारीख /Date of Pronouncement	:	31.12.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee Firm against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 29.12.2023 for the Assessment Year (hereinafter in short "AY") 2016-17.

2. At the outset, the Ld.AR of the assessee submitted that in this case, the AO has made addition of Rs.2,12,60,000/- u/s.69 of the Income Tax





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Act, 1961 (hereinafter in short "the Act"), since he found that the assessee Firm didn't file any return of income (RoI) for AY 2016-17; and that he got information that assessee had purchased immovable property of value of Rs.2,12,60,000/- which was registered at the Sub-Registrar Suramangalam, Tamil Nadu. The AO asked the assessee to furnish the *nature and source* of the investment and issued notice u/s.148 of the Act dated 31.03.2021; and finding no response, issued notice u/s.142(1) of the Act and since, there was no reply from the assessee, the AO added Rs.2,12,60,000/- u/s.69 of the Act by framing assessment on 30.03.2022. On appeal, the Ld.CIT(A) confirmed the addition on the ground that the assessee didn't file the relevant documents to substantiate the *source* of the investment.

3. Aggrieved, the assessee is in appeal before this Tribunal.

4. We have heard both the parties and perused the material available on record. From perusal of records, it is noted that the assessee Firm was formed on 07.10.2015 by thirteen (13) individuals/partners whose names and addresses are seen from the first page to last page of the Partnership Deed placed before us. The address of the partners are seen recorded in it from Page Nos.1-4 of the *ibid* deed; it is further noted that this was the first year of business of real estate; and in this relevant year, the assessee-Firm purchased an immovable property [land] for a





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consideration of Rs.2,12,60,000/- which was registered with Sub-Registrar, Suramangalam; and since the e-mail ID of the assessee was not functioning/glitches was there, the assessee was not aware of the assessment proceedings going on against it before the AO, because of which, it couldn't appear and participate in it. Further, it was also brought to our notice that all the thirteen (13) partners of assessee-Firm are regularly filing their respective returns and duly assessed to tax. According to the Ld.AR, the amount in question/investment [of Rs.2,12,60,000/- for purchase of land] was the capital contribution from the thirteen (13) partners and pleaded that if an opportunity is given, it would be able to file all the relevant documents as well as, if necessary, produce the partners before the AO. In this regard, we note that the AO has passed an *ex parte* order because assessee didn't respond to his notices and as noted it was because the assessee didn't receive any notice and on the very same reasoning the Ld.CIT(A) also dismissed the appeal of assessee. In the background of the discussion, on the peculiar facts noted supra, we are of the opinion that assessee should be granted one more opportunity before the AO to prove the nature and source of the investment made by the assessee. For that we rely 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); and set aside the impugned order of the





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Ld.CIT(A) and restore the assessment back to the file of the AO with a direction to *de novo* assesses the income of the assessee.

5. Needless to say, that assessee to be diligent and file written submissions/relevant documents to prove the source of investment to the tune of Rs.2,12,60,000/-. According to us, assessee should have been more vigilant and therefore, we levy a cost of Rs.5,000/- 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 31st day of December, 2024, in Chennai.

Sd/-
(जगदीश)
(JAGADISH)

लेखा सदस्य / ACCOUNTANT MEMBER
चेन्नई/Chennai,
दिनांक/Dated: 31st December, 2024.
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 / Goimbatore
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF



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चेन्नई बेंच / CHENNAI BENCHES