

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' 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.441/Chny/2025
Assessment Years: 2016-17

Mrs.Rajkanwar Kataria,
Tower No.4, Flat No.G-03, No.4,5,6
North Town Estate, Binny Mills,
Stephenson Road, Jamlaia,
Chennai-600 012.
[PAN: AALPK5671N]

Income Tax Officer,
Non-Corporate Ward-10(5),
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by
प्रत्यर्थी की ओर से /Revenue by

: Shri M.Murugaboopathy, Advocate
: Ms.Gowthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing : 23.04.2025
घोषणा की तारीख /Date of Pronouncement : 30.04.2025

आदेश / O R D E R

PER AMITABH SHUKLA, A.M :

This appeal is filed by the Assessee against the order bearing DIN & Order No.ITBA / NFAC / S / 250 / 2023-24 / 1059728535(1) dated 15.01.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment years 2016-17

2.0 It has been noted that there is a delay of 319 days in the case, in filing of this appeal before the tribunal. In its affidavit the assessee has pleaded that the assessee is assisted by her accountant in the tax matters

who in turn was not aware that the appellate orders were uploaded on the Income Tax Portal. All these activities contributed to the delay which was neither willful nor wanton. The assessee submitted that there will not be case of any non-compliance now. We have considered the justification put forth by the assessee and we are satisfied with their adequacy. We are also conscious of the fact that no litigant gains by intentionally delaying its own matters. The Ld. DR did not pose any serious objections to the delay. Accordingly, we hereby condone the delay and proceed to adjudicate this appeal.

3.0 The various issues contested through the present appeal are regarding the action of the Ld.AO in making an addition on account of modified determination of capital gains, adoption of stamp duty valuation invoking provisions of section 56(2)(vii)(c), addition u/s 50C and charging of income u/s 234A,B & C etc. At the outset, Ld.Counsel for the assessee submitted that the Ld.CIT(A) has passed an ex-parte order without giving sufficient opportunity of being heard. Attention was invited to para 4 of appellate order indicating that opportunities were provided to the assessee which were not complied. The Ld. Counsel submitted that even the Ld.AO has not given any opportunity of being heard to the assessee before making the impugned addition and that the information was obtained and used without assessee's knowledge. It was requested that one last opportunity be provided to present its case

before the Lower Authorities. The Ld.AR gave personal assurance that full compliance will be made to the statutory notices.

4.0 The Ld.DR relied upon the orders of lower authorities.

5.0 We have heard rival submissions in the light of material available on records. There is no denying the fact that the assessee has not adequately complied with the statutory notices issued by the Ld.CIT(A). It is also noted that the Ld.AO has not given sufficient opportunity of being heard to the assessee. Be that as it may be, we are of the considered view that, considering overall facts of the case as also in the interest of justice, the assessee deserves another opportunity before the Lower Authorities. Accordingly, the order of lower authorities is set aside and the Ld. AO is directed to re-adjudicate the matter de novo after giving due opportunity of being heard and by passing a speaking order. 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 noted with respectful deference the decision of Hon'ble Apex Court in the case of TIN box 249 ITR 216 on the subject matter. The Ld. AO shall give opportunities of being heard to the assessee and it shall be bound upon the assessee to comply with the notices issued by the Ld. AO. Any non-compliance on the part of the assessee can be

adversely viewed. The assessee is at liberty to produce all or any other evidences deemed relevant in support of its claims before the Ld. AO during the re-adjudication proceedings. Accordingly, all the grounds of appeal raised by the assessee are therefore allowed for statistical purposes.

6.0. In the result, the appeals of the assessee is allowed for statistical purposes.

Order pronounced on 30th, April -2025 at Chennai.

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष / vice president

चेन्नई/Chennai, दिनांक/Dated: 30th, April -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 - Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF