

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

श्री एबी टी वर्की, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: 350/Chny/2025

निर्धारण वर्ष / Assessment Year: 2017-18

Sanjai Balasubramaniam, No.24/1, New Street, Raja Goundampalayam, Tiruchengode – 637 209.	vs.	Income Tax Officer - Ward 1, Sri Balaji Towers, No.183, Municipality Area, Bunglow Str., Erode Main Road, Tiruchengode – 637 211.
[PAN: AVIPS-3226-M] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. T.S.Lakshmi Venkataraman, F.C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri. Keerthi Narayanan, JCIT

सुनवाई की तारीख/Date of Hearing : 22.04.2025
घोषणा की तारीख/Date of Pronouncement : 28.04.2025

आदेश /ORDER

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal by the assessee is filed against the order of the Commissioner of Income Tax (Appeals), ADDL/JCIT (A)-3, National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2017-18, dated 05.12.2024.

2. The assessee is an individual engaged in the business of export of cloth sales and filed his return of income manually for the assessment year 2017-18 on 02.05.2018 declaring total income of

Rs.4,40,070/-. The case was reopened accordingly, statutory notices were issued to the assessee. However, the assessee did not participate in the assessment proceedings and hence the assessing officer passed an ex parte order under Section 144 r.w.s 147 of the Act dated 27.12.2019 by estimating income from business @ 8% of the turnover and also making an addition of Interest and duty drawback income Rs.25,93,632/- by rejecting the income declared in the return of income. Subsequently, the assessee filed an appeal before the Id. CIT (A), NFAC. However, the assessee did not participate in the appeal proceedings, in spite of providing four opportunities by the Id.CIT(A) from 22.02.2021 to 22.11.2024 as noted in paragraph 3 of the Id.CIT(A) order. Hence, the Id.CIT(A) passed an order dated 05.12.2024 by confirming the Assessing Officer's order and dismissed the appeal of the assessee. Aggrieved by the order of the Id. CIT (A), the assessee is in appeal before us.

3. The Id.AR submitted that on the facts and circumstances of the case the order of the lower authorities in dismissing the appeal of the assessee is bad in law and is not legally justified. The Id.AR brought to our notice that both the orders of the Assessing Officer and that of Id.CIT(A) are passed without the participation of the assessee and hence prayed for one more opportunity before the Assessing Officer in the interest of natural justice. Further, the Id.AR stated that he

undertakes to appear before the Assessing Officer and submit all the required information and documents as and when called for.

4. Per contra, the Id.CIT (A) fairly conceded for remitting the matter back to the Assessing Officer, since the order was passed u/s.144 of the Act.

5. We have heard the rival contentions and perused the material on record and gone through the orders of the lower authorities. We note that the Assessing Officer has passed an exparte order by considering the information available with the department and made an addition and the same has been dismissed by the Id.CIT(A) - NFAC due to non-participation of the assessee in the first appellate proceedings. Therefore, we set aside the order of the Id.CIT(A), to meet the ends of justice we remit the matter back to the file of Assessing Officer by relying on the decision of the Hon'ble Supreme Court in the case of Tin Box Company vs CIT, [2001] 249 ITR 216 (SC) and direct AO to denovo frame the assessment order in accordance to law, after providing reasonable opportunity to the assessee. Since the assessee has failed to participate in the appellate proceedings, we levy the cost of Rs.5,000/- to be paid to State Legal Aid Authority, Hon'ble High Court of Madras and produce proof of payment of cost to the Registry within 30 days from the date of receipt of this order. Needless to say, the assessee to be diligent and file written submissions and relevant documents if advised so.

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

Order pronounced in the open court on 28th April, 2025 at Chennai.

Sd/-
(एबी टी वर्की)
(ABY T VARKEY)
न्यायिक सदस्य/Judicial Member

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 28th April, 2025

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

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