

आयकर अपीलीय 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.399/Chny/2025
Assessment Years: 2017-18

Sivaji,
No.5/199, Sowkat Ali Street,
Paramakudi, Ramnad,
Tamil Nadu-623 707.
[PAN: ACYPS0525L]

Income Tax Officer,
Ward-2, Ramnad,
Madurai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri R.Meenakshisundaram, Advocate
: Ms.Gouthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing : 24.04.2025
घोषणा की तारीख /Date of Pronouncement : 02.05.2025

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 / 1059613400(1) dated 11.01.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment years 2017-18.

2.0 It has been noted that there is a delay of 393 days in the case, in filing of this appeal before the tribunal. In its affidavit the assessee has pleaded that the assessee is a small time middleman in trading of Chilly and that he was totally relying upon his accountant for tax compliances,

who could not make timely compliances. The appellate is a semi-literate and not conversant with the complicated tax matters. 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 At the outset, the Ld. Counsel for the assessee submitted that the Ld. CIT(A) has passed an ex-parte order without giving sufficient opportunity of being heard. It has been stated that the accountant could not guide him properly leading to the deficient compliances. The Ld. Counsel therefore requested that the matter be remitted back for readjudication.

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

5.0 We have heard rival submissions in the light of material available on records. We have noted that the Ld.AO had passed order u/s 143(3) dated 27.12.2019 making addition u/s 68 of the act of Rs.14,50,000/- as unexplained cash deposit made during the demonetization period. The Ld. AO had also invoked provisions of section 115BBE of the act. The assessee proceeded to make a petition u/s 154 of the act dated

29.01.2020. The assessee had in principle contested the levy of tax at 60% u/s 115BBE. The same was rejected by the Ld.AO. Aggrieved by the Ld.AO's order, assessee agitated the matter before the Ld.CIT(A). The Ld. CIT(A) noted in para 5.3 of his order that no mistake was evident in the order u/s 154 passed by the Ld.AO. It was also concluded that no change of opinion is permissible under 154. We find sufficient force in the argument of the Ld.First Appellate Authority that, the Ld. AO do not possess any power of review u/s 154. We have also noted that in para 4 of his order Ld.CIT(A) has observed that the assessee has not responded to the statutory notices and thus has not submitted any arguments. A case of adjudication being done ex-parte is therefore clearly made out. We have noted from the grounds of appeal raised before the Ld.CIT(A) that the assessee was fiercely contesting, through its grounds of appeal, the levy of tax rates at 60% qua provisions of section 115BBE. We have also noted that the order of Ld.CIT(A) is not abundantly clear as far as adjudication of these grounds of appeal are concerned. He has merely proceeded on the premise that substantive additions cannot be revisited in 154. The fact of the matter however remains that challenge to application of provisions of section 115BBE in assessee's case has not been appropriately dealt by the Ld.CIT(A). Be that as it may we are of the considered that in the interest of justice, it would be appropriate to remit the matter back to the Ld.CIT(A) for readjudication. Accordingly,

we set aside the order of Ld.CIT(A) and direct him to readjudicate the matter after giving due opportunity of being heard to the assessee and by way of a speaking order. The assessee shall comply with all the statutory notices and any non-compliance by the assessee would be adversely viewed. Accordingly, all the grounds of appeal raised by the assessee are therefore allowed for statistical purposes.

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

Order pronounced on 2nd , May -2025 at Chennai.

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष / vice president

चेन्नई/Chennai, दिनांक/Dated: 2nd , May -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