

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.458/Chny/2025
Assessment Years: 2017-18

Vattamalai Rathinasamy Anguraj,
No.170, Vattamalai, Vattamalai
Tiruppur, Avanashipalayampudur B.O.
Tamil Nadu-638 701.
[PAN: AHIPA5395F]

Income Tax Officer,
Ward-2(1)
Tiruppur,

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri S.Bhupendran, Advocate(Virtual)
: Ms.Gowthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing : 23.04.2025
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 / 2024-25 / 1072949617(1) dated 05.02.2025 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 At the outset, the Ld. Counsel for the assessee submitted that both the lower authorities the Ld.AO as well as Ld.CIT(A) has passed ex-parte orders in case of the assessee. It was submitted that the only issue under consideration is an addition u/s 69A of Rs.1,12,61,351/- on

account of cash deposits in bank account treated as unexplained. The Ld. Counsel for the assessee submitted that the Ld. First Appellate Authority has also confirmed the addition by passing an ex-parte order without giving sufficient opportunity of being heard. The Ld.AR pleaded that the assessee was not able to make the timely compliances on account of unfortunate demise of his brother in road accident, accompanying losses in business and financial constraints. The Ld. AR submitted that its case is covered by ratio laid down in the decision of Hon'ble Apex Court in Rajiv Bansal case. It was accordingly pleaded that in the interest of justice the matter may be restored back to the file of Ld.AO for readjudication. The Ld. Counsel assured that full compliance would now be made to the statutory notices. The Ld. DR would like to make us believe on the correctness of the order of lower authorities. It was however argued that the assessee is a willful defaulter and that in the event of any remission, cost be imposed upon the assessee for wasting the precious time of the Court.

3.0 We have heard rival submissions in the light of material available on records. As per facts recorded by the Ld. AO in his order, he had given opportunities to the assessee for filing the required details which were not satisfactorily filed by the assessee leading to his making the impugned addition u/s 144. We have however noted that the order passed by the Ld. AO is not a speaking order and clear facts have not

been brought on records before making the impugned addition. There are also indications of no enquiries conducted by the Ld.AO. Before the Ld.First Appellate Authority also the conduct of the assessee was far from satisfactory as far as compliance to statutory notices are concerned leading to dismissal of the appeal for want of adequate persecution by the assessee.

3.1 We have thus noted that inadequate submission of details and evidences, before the lower authorities qua sources of deposits in assessee's bank account lies at the core of the controversy. We are therefore of the view that ends of justice would be met if the assessee is given one last opportunity to present its case and file all supporting evidences before the Ld.AO. The assessing officer is the primary authority under the income tax act to be examine facts of a case in the light of available evidences before determining correct taxable income of a tax payer. We therefore set aside the order of lower authorities on this issue and we direct the Ld. AO to readjudicate the matter de novo by examining the matter afresh in accordance with law and by passing a speaking order. Reliance in this regard is placed upon the decision of Hon'ble Apex Court in the case of TIN box 249 ITR 216. The Ld. AO shall give opportunities of being heard to the assessee and it shall be bounden 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. This order is however subject to payment of cost of Rs.5,000/-(Five thousand only) by the assessee to the Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras within 30 days of the receipt of this order. **Accordingly, all the grounds of appeal raised by the assessee on this issue are allowed for statistical purposes.**

4.0 In the result, the appeal 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 - Coimbatore
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF