

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 Nos.: **364 & 365 /Chny/2025**  
निर्धारण वर्ष / Assessment Year: **2012-13**

<b>Kandasamy Govindaraj,</b> 56, Anna Nagar, Rayappa Colony, Kumarasamypet Post, Dharmapuri – 636 703.	vs.	<b>ITO,</b> Ward -1, Dharmapuri.
<b>[PAN: ANPPG-2860-G]</b> (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Ms. S. Mathangi, Advocate (Virtual).  
प्रत्यर्थी की ओर से/Respondent by : Mr. Keerthi Narayanan, JCIT

सुनवाई की तारीख/Date of Hearing : 23.04.2025  
घोषणा की तारीख/Date of Pronouncement : 15.05.2025

**आदेश / O R D E R**

**PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:**

These appeals by the assessee are filed against the separate orders of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the same assessment year 2012-13, dated 05.12.2023 and 19.07.2024 respectively.

2. The assessee has raised the following grounds of appeal:-

**ITA No.364/Chny/2025**

1. *The order of the First Appellate Authority is bad and erroneous in law.*
2. *The learned First Appellate Authority erred in invoking Section 249 (4) (b), thereby dismissing the appeal on that ground without considering the fact that there was no advance tax payable by the appellant.*

3. *Without prejudice, the learned First Appellate Authority erred in simply endorsing the assessment order without considering that his powers are co-terminus with that of the Assessing Officer.*
4. *The learned First Appellate Authority as well as the Assessing Officer erred in not considering the fact that the information available on the record, presumably AIR information, that the appellant has cash deposits, amounted to borrowed satisfaction, thereby making the entire reassessment proceedings null and void.*

**ITA No.365/Chny/2025**

1. *The order of the First Appellate Authority is bad and erroneous in law.*
  2. *When the Appellant has challenged the very assessment order, the consequential penalty order cannot stand the test of law.*
3. At the outset, we find that there is a delay of 341 days in appeal filed by the assessee in ITA No.364/Chny/2025 and also there is a delay of 127 days in appeal filed by the assessee in ITA No.365/Chny/2025, for which the assessee has filed separate affidavits stating the same reasons for delay, wherein, it is submitted that the assessee is uneducated and has not been communicated about the notices sent during the assessment proceedings because of the internal family disputes. Hence, there was a delay in filing the appeals by the assessee. After considering the Affidavits filed by the assessee and also hearing both the parties, we find that there is a reasonable cause for the assessee in not filing appeal on or before the due date prescribed under the law and thus, in the interests of justice, we condone delay in filing of appeal and admit the appeal filed by the assessee for adjudication.
4. The brief facts of the case are that the assessee is an individual had not filed his return of income though he had deposited cash to the tune of Rs.50,17,691/- to his bank accounts. The case was reopened for assessment and AO had issued statutory notices. However, the assessee failed to respond

to the notices and hence the AO passed an exparte order u/s.147 r.w.s. 144 of the Act dated 25.09.2021 by making an addition of entire cash deposit as unexplained money u/s.69A of the Act. Further, the AO also passed an order dated 13.01.2022 by levying penalty u/s.271(1)(c) of Act to the tune of Rs.13,98,027/-.

5. Aggrieved by the orders of the AO, the assessee preferred appeal before the Id.CIT(A), NFAC, Delhi.

6. The Id.CIT(A), NFAC has dismissed appeal as not admitted u/s.249(4)(b) stating that the assessee had not made the payment of applicable advance tax. Further, the Id.CIT(A) has also stated that the assessee has not made any application as per the proviso to section 249(4) of the Act. Aggrieved by the order of the Id.CIT(A) the assessee is before us.

7. At the outset we find that the Id.CIT(A) has dismissed the quantum appeal filed by the assessee without admitting appeal as per section 249(4)(b) of the Act. In our considered view the question of payment of advance tax as provided in section 249(4)(b) of the Act does not arise in the reopened cases, where entire addition has been questioned in appeal by the assessee before the appellate authorities. Our above view has been affirmed by this Tribunal in the case Perumalpillai Sreenivasan Vs. ITO, in ITA No.3186/Chny/2024 dated 18.03.2025. In the present facts and circumstances of the case, we are of the considered view that the Id.CIT(A) has erred in dismissing the appeal without admitting and hence we are inclined to remit back to the issue to the files of the Id.CIT(A) by directing to adjudicate the issue on merits after providing reasonable opportunity to the assessee.

8. Since, the quantum appeal has been set aside to the files of the Id.CIT(A) to decide on merits, the penalty appeal filed by the assessee in ITA No.365/Chny/2025, which is consequential to the outcome of the quantum appeal. Hence, we are setting aside this appeal also to the files of the Id.CIT(A) to decide on merits in accordance to law along with the quantum appeal.

9. In the result both the appeals of assessee are allowed for statistical purposes.

Order pronounced in the open court on 15<sup>th</sup> May, 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 15<sup>th</sup> May,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