

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.496/Chny/2025
Assessment Years: 2010-11

Ramasamy Selvaraj
No.57/65, Karukkakattur,
P.Olapalayam P.O,
Perundurai, Erode,
Tamil Nadu-638 052.
[PAN: BUUPS5801E]

Income Tax Officer,
Ward-2(2),
Erode.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri N.C.Ravi Krishnan, Advocate
: Shri N.Rajakumar, Addl.CIT

सुनवाई की तारीख/Date of Hearing : 13.05.2025
घोषणा की तारीख /Date of Pronouncement : 16.05.2025

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed by the assessee against the order bearing DIN & Order No.ITBA / APL / S / 250 / 2024-25 / 1071605863(1) dated 27.12.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A)], Addl /JCIT(A)-11, Delhi, for the assessment years 2010-11.

2.0 At the outset, the Ld. Counsel for the assessee submitted that the Ld. AO has passed an ex-parte order u/s 144. It has been submitted that the Ld.CIT(A) has also dismissed its appeal on this short point that the assessee did not responded before the Ld.AO to its statutory notices.

It was argued that no decision on merits has been given. The Ld.Counsel submitted that the entire controversy is regarding cash deposit of an amount of Rs.10,93,500/- in assessee's bank account and it was treated as unexplained. Request was accordingly made to remand the case to the Ld.AO for readjudication.

3.0 Per contra, the Ld.DR placed upon the order of lower authorities. It has been contended that the assessee is a non-filer and has not responded to the notices u/s 148 as well as 142(1) forcing the Ld.AO to pass an ex-parte order.

4.0 We have heard rival submissions in the light of material available on records. Before us the assessee submitted that it could not attend before the Ld.AO as the assessee is an agriculturist who stays in a remote village and that he was occupied in some court matters. It was stated that the impugned money actually belonged to the nephew of the assessee, located overseas, who was desirous of purchasing a piece of land. The assessee had withdrawn cash from the nephew's account. Later as the purchase deal did not materialize, the amount was deposited in the bank account. We have noted that the assessee has not represented its case before the Ld.AO adequately leading to the impugned addition. We have also noted that the Ld.CIT(A) has given a very sketchy and cryptic finding before confirming the matter. We are of the view that ends of justice would be met if the assessee is given

another opportunity to present its case and file supporting evidences before the Ld.AO. 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. Accordingly, the matter stands remitted back to the Ld. AO for fresh adjudication de novo by passing a speaking order. To the extent the order of lower authorities on this issue stands set aside. 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. The assessee is at liberty to produce all the evidences filed through its paper book before us including any other evidences deemed relevant in support of its claims before the Ld. AO during the readjudication proceedings. The said remission is however subject to the assessee paying a cost of Rs.5000/- to be paid to the Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras within one month of the date of the receipt of this order. By the assessee. The assessee will pay this cost and produce the receipt before the AO.

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 16th , May -2025 at Chennai.

Sd/-

(एबी टी. वर्की)

(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

**चेन्नई/Chennai, दिनांक/Dated: 16th
KB/-**

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

, May -2025.

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