

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.353/Chny/2025
निर्धारण वर्ष/Assessment Year: 2011-12

Selvaraju, 5/192, Salem Main Road, Ganapathy Nagar, Andagalur Gate Post, Rasipuram Taluk, Namakkal-637 401.	v.	The ITO, Ward-2, Tiruchengode.
[PAN: AUEPS 8903 N]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr. T. S. Lakshmi Venkatraman, FCA
प्रत्यर्थी की ओर से /Respondent by	:	Mr. Keerthi Narayanan, JCIT
सुनवाईकीतारीख/Date of Hearing	:	24.04.2025
घोषणाकीतारीख /Date of Pronouncement	:	26.05.2025

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter referred to as "the Ld.CIT(A)"), Delhi, dated 06.12.2024 for the Assessment Year (hereinafter referred to as "AY") 2011-12.



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2. At the outset, the Ld.AR of the assessee brought to our notice that impugned order of the Ld.CIT(A) as well as the assessment order passed by the AO are ex parte orders qua assessee. In this regard, it is noted that the Ld.CIT(A) has noted from the contents of the Form No.35 filed by the assessee that it was not accompanied with the complete set of assessment order and therefore, issued a defect notice on 08.11.2024 and finding no response, has dismissed it. Likewise, we find that the assessment order has been framed u/s.144 of the Income Tax Act, 1961 (hereinafter referred to as ` the Act`) i.e. best judgment assessment, since the AO noted that the assessee didn't respond to his notices, and was pleased to make the addition of Rs.34,69,000/- i.e. cash deposited in the assessee's account. The assessee brought to our notice that four (4) notices issued by the AO has gone into the 'SPAM' account of the e-mail of the assessee. Therefore, assessee was not aware of the notices and therefore, couldn't reply. Be that as it may, since the assessee didn't get proper opportunity before the AO, relying on the decision of the Hon'ble Supreme Court in the case of **TIN Box Co. v. CIT reported in [2001] 249 ITR 216 (SC)**, we are inclined to set aside the impugned order of the Ld.CIT(A) and restore the assessment back to the file of the AO for de novo assessment.



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3. The Ld.AR has undertaken to file the written submissions and other relevant documents before the AO. The AO is directed to send a copy of notice also to the Ld.AR's e-mail ID: tslakshmivenkataraman@yahoo.co.in; and the AO to pass the order in accordance to law after hearing the assessee. Since there is negligence on the part of the assessee, cost of Rs.10,000/- is imposed which the assessee should remit to the State Legal Aid Authority, Hon'ble Madras High Court, and produce necessary proof of depositing of the same before the AO and thereafter, the AO to frame the de novo assessment after hearing the assessee in accordance to law.

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

Order pronounced on the 26th day of May, 2025, in Chennai.

Sd/-

(एस. आर. रघुनाथा)
(S.R.RAGHUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(एबी टी. वर्की)
(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 26th May, 2025.

TLN

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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