

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.382/Chny/2025
निर्धारण वर्ष/Assessment Year: 2018-19

Geetha Ponkathaperumal, 34-C, Melasoorankudi, Konam Post, Nagercoil-629 004.	v.	The ITO, Ward-1, Nagercoil.
[PAN:ALIPP 5741 L]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr. R. Venkata Raman, CA Mr. R.S. Lakshmi Narayana, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Mr. Keerthi Narayanan, JCIT
सुनवाईकीतारीख/Date of Hearing	:	23.04.2025
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 11.12.2024 for the Assessment Year (hereinafter referred to as "AY") 2018-19.

2. At the outset, the Ld.AR of the assessee brought to our notice that the impugned order of the Ld.CIT(A) as well as the assessment order are



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ex parte orders. According to the Ld.AR, the notices issued by the AO had gone into e-mail ID of the former Tax Consultant who didn't inform the assessee which resulted in the AO passing assessment order u/s.144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') (best judgment assessment) by making huge addition. According to the Ld.AR, since the assessee didn't respond to five (5) notices issued by the Ld.CIT(A), the First Appellate Authority has merely reproduced the assessment order and observed that since there is no evidences to contradict the findings of the AO, he confirmed the additions. According to the Ld.AR, since the alleged notices issued by the Ld.CIT(A) had gone to the 'spam' account of the e-mail ID of assessee, the assessee couldn't respond to the Ld.CIT(A). Therefore, assessee can't be faulted for not responding to the notices of the Ld.CIT(A); and further submitted that assessee also didn't get proper opportunity before the AO who is the primary authority to assess the income of the assessee, therefore, he pleaded that the assessment should be restored to the file of the AO as held by the Hon'ble Supreme Court in the case of **TIN Box Co. v. CIT reported in [2001] 249 ITR 216 (SC)**.

3. Per contra, the Ld.DR doesn't want us to give one more innings to the assessee and submitted that the assessee didn't participate before the AO and only filed the return of income (RoI), bank statement, etc., and didn't file any written submissions, cash flow statement, relevant books of



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accounts, etc., to explain the entire cash deposits and credits with due supporting workings for capital gains, etc. According to him, when the assessee didn't file any documents to substantiate the property in question is agricultural land, therefore, the Ld.CIT(A) can't be faulted for confirming the action of the AO. In the absence of without filing the supporting/relevant documents to substantiate the contention raised before the Ld.CIT(A), the Ld.CIT(A) has rightly confirmed the order of the AO and it doesn't require any interference from our side.

4. Having heard both the parties and after perusing the records, we note that this is a case where the AO has re-opened the assessment based on the information that the assessee pursuant to sale of immovable property has made huge cash deposits in his current account maintained with IOB, Nagercoil, and that the assessee had total credit of Rs.2.74 Crs. in his current account, which has not been explained by the assessee, the AO re-opened the assessment and since the assessee didn't respond to the notices issued by him during the course of assessment proceedings has drawn adverse interference against the assessee. In this regard, the assessee has brought to our notice that five (5) notices were issued by the department to the e-mail ID of the former Tax Consultant, who didn't bother to inform the assessee about the assessment proceedings going on against the assessee. Therefore, the assessee was in the dark about the



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assessment proceedings going on against him. On appeal, the Ld.CIT(A) is noted to have issued five (5) notices to the assessee and found that that the assessee in support of her grounds of appeal has only filed copy of the RoI and bank statement and didn't bother to file any relevant documents to support the grounds of appeal raised before him, hence has confirmed the action of the AO. In this regard, the Ld.AR brought to our notice that the assessee was in receipt of the notice dated 27.06.2024 which was responded by him on two occasions by filing belated/uploaded copy of ROI, bank statement, etc., along with statement of facts. However, the assessee didn't receive any notices thereafter from the Ld.CIT(A). Therefore, assessee didn't file any other documents requisitioned by the Ld.CIT(A). According to the Ld.AR, the other four (4) notices have gone into the 'SPAM' account and therefore, the assessee was not aware of such notices which resulted in the Ld.CIT(A) drawing adverse inference against the assessee. Be that as it may, it is noted that there is violation of natural justice both at the end of the Ld.CIT(A) as well as the AO. Therefore, for the interest of justice and fair play, 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 with a direction to frame de novo assessment after hearing the assessee. The assessee is directed to file relevant documents to explain the cash deposits in her bank account by filing relevant books of accounts, cash flow statement, bank statements



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Geetha Ponkathaperumal

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and explain the entire cash deposits and credits with due supporting workings for capital gains. The assessee is also directed to file proof of sale of land which according to the assessee was agricultural land. The AO has undertaken to be diligent and file written submissions as well as relevant documents. Having said so, we direct the assessee to deposit cost of Rs.10,000/- 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.

5. 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. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF