

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: 750/Chny/2025
निर्धारण वर्ष / Assessment Year: 2012-13

M. Sathasivam, No.8/4, Father Gause Road, S Kodiyur, Jolarpet Post Tirupattur- 635 851.	vs.	ITO, Ward -2, Vellore.
[PAN:BHEPS-9749-G] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Mr. N. Raghuram, C.A. by virtual
प्रत्यर्थी की ओर से/Respondent by : Ms. Gouthami Manivasagam, J.C.I.T.

सुनवाई की तारीख/Date of Hearing : 04.06.2025
घोषणा की तारीख/Date of Pronouncement : 11.06.2025

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal by the assessee is filed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2012-13, dated 20.10.2023.

2. At the outset, we find that there is a delay of 438 days in appeal filed by the assessee, for which the assessee has filed affidavit stating the reasons for delay, wherein, it is submitted that the assessee was lack of awareness regarding the relevant taxation matters and was not notified of the notices and orders issued by the Income Tax Department. Hence, there was a delay in filing the appeal by the assessee. After considering the Affidavit 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.

3. The brief facts of the case are that the assessee is an individual who was a central government employee. As per the information of cash deposits to the tune of Rs.10,00,000/- or more by the assessee into his savings bank account for which the assessee has not filed the return of income, the AO had reopened the case u/s.147 of the Act and issued notices u/s.148 of the Act on 26.03.2019 to the assessee. Further, the AO also issued various notices to the assessee to appear and furnish the details of cash deposit. However, the assessee failed to respond to all the notices and also did not file the return of income also. Since the assessee failed to participate in assessment proceedings, the assessment was concluded u/s.144 of the Act dated 28.12.2019, by adding an amount of cash deposit of Rs.17,62,290/- on account of unexplained cash deposits in SB account.

4. Aggrieved by the order of the AO assessee preferred an appeal before the Id.CIT(A),NFAC, Delhi. However, the assessee did not respond to any of the three notices issued by the Id.CIT(A) from 06.01.2022 to 25.09.2023. Hence, the Id.CIT(A) passed an exparte order dated 20.10.2023 by confirming the order of AO and dismissed the appeal of the assessee.

5. The Ld.AR for the assessee submitted that the assessee has failed to take note of hearing notices sent through e-mail, resulting in non-cooperation of assessee during the appellate proceedings as well as assessment

proceedings. It was prayed in the interest of justice and equity, the issue may be restored to the files of the AO as a last opportunity for proper representation of his case.

6. The Ld.DR submitted that adequate opportunities were provided from the offices of the AO and the Id.CIT(A) and there is no violation of principles of natural justice. Therefore, it was prayed the appeal of the assessee may be dismissed.

7. We have heard rival submissions and perused the materials on record. The Office of the First Appellate Authority had issued three hearing notices. It was the contention of the Id.AR that the assessee had failed to take note of hearing notices sent from the office of the Id.CIT(A). We note that the AO has also passed an ex parte order by considering the information available with the department along with few information and documents submitted by the assessee and made an addition and the same has been upheld by the Id.CIT(A) - NFAC due to non-participation of the assessee in the first appellate proceedings. Since the assessee has failed to participate both before the AO as well as the appellate proceedings, we levy the cost of Rs.5,000/- (Rupees Five Thousand only) to be paid to State Legal Aid Authority, Hon'ble High Court of Madras and produce proof of payment of cost to the Registry within 30 days from the date of receipt of this order. Accordingly, in the interest of justice, we set aside the order of the Id.CIT(A) and remit the matter back to the file of Assessing Officer by relying on the decision of the Hon'ble Supreme Court in the case of Tin Box Company vs CIT, [2001] 249 ITR 216 (SC) and direct AO to denovo frame the order in accordance to law, after providing reasonable

opportunity to the assessee. Needless to say, assessee to be diligent and file written submissions and relevant documents if advised so.

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

Order pronounced in the open court on 11th June, 2025 at Chennai.

Sd/-
(मनु कुमार गिरि)
(MANU KUMAR GIRI)
न्यायिक सदस्य/Judicial Member

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 11th June, 2025

sp

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