

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

माननीय श्री मनु कुमार गिरि ,न्यायिक सदस्य एवं माननीय श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
HON'BLE SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1095/Chny/2025
Assessment Years: 2017-18

Danadjeane,
No.28, Pillaiar Koil Street,
Embalam,
Pondichery
[PAN: AQIPD2440H]

Income Tax Officer,
Ward-1
Pondicherry.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Mr.P.M.Kathir, Advocate
: Ms.Anitha, Addl.CIT

सुनवाई की तारीख/Date of Hearing : 17.06.2025
घोषणा की तारीख /Date of Pronouncement : 19.06.2025

आदेश / O R D E R

PER AMITABH SHUKLA, A.M. :

This appeal is filed by the assessee against the order bearing DIN & Order No.ITBA / NFAC / S / 250 / 2023-24 / 1063684660(1) dated 30.03.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment year 2017-18. The reference to the word "Act" in this order hereinafter shall mean the Income Tax Act, 1961 as amended from time to time.

2.0 It has been noted that there is a delay of 325 days in the case, in filing of this appeal before the tribunal. In its affidavit the assessee has pleaded that the assessee, an agriculturist, had actually deposited the appeal fees in June 2024 itself. However a Chartered Accountant could not file the appeal in time because of some mutual misunderstanding. It was submitted that deposit of appeal fees in June-2024 itself indicates that there was no wilful attempt to delay. All these activities contributed to the delay which was neither wilful nor wanton. The assessee submitted that there will not be case of any non-compliance now. We have considered the justification put forth by the assessee and we are satisfied with their adequacy. We are also conscious of the fact that no litigant gains by intentionally delaying its own matters. The Ld. DR did not pose any serious objections to the delay. Accordingly, we hereby condone the delay and proceed to adjudicate this appeal.

3.0 At the outset, the Ld. Counsel for the assessee submitted that both the lower authorities the Ld.AO as well as Ld.CIT(A) has passed ex-parte orders in case of the assessee. It was submitted that the only issue under consideration is an addition of Rs.11,43,000/- on account of unexplained cash deposits in the bank during the demonetization period. The Ld. Counsel for the assessee submitted that the Ld.First Appellate Authority has also confirmed the addition by passing an ex-parte order

without giving sufficient opportunity of being heard. It was accordingly pleaded that in the interest of justice the matter may be restored back to the file of Ld.AO for readjudication. The Ld. Counsel personally assured that full compliance would now be made to the statutory notices.

4.0 Per contra, the Ld. DR would like to make us believe on the correctness of the order of lower authorities.

5.0 We have heard rival submissions in the light of material available on records. As per facts recorded by the Ld. AO in his order, he had given opportunities to the assessee for filing the required details which were not satisfactorily filed by the assessee leading to his making the impugned addition. We have however noted that the order passed by the Ld. AO is not a speaking order and clear facts have not been brought on records before making the impugned addition. There are also indications of no enquiries conducted by the Ld.AO. Before the Ld.First Appellate Authority also the conduct of the assessee was far from satisfactory as far as compliance to statutory notices are concerned leading to dismissal of the appeal for want of adequate prosecution by the assessee.

6.0 We have thus noted that inadequate submission of details and evidences, before the lower authorities qua sources of cash deposits in assessee's bank account lies at the core of the controversy. We are therefore of the view that ends of justice would be met if the assessee is given one last opportunity to present its case and file all supporting evidences before the Ld.AO. The assessing officer is the primary authority under the income tax act to be examine facts of a case in the light of available evidences before determining correct taxable income of a tax payer. We therefore set aside the order of lower authorities on this issue and we direct the Ld. AO to readjudicate the matter de novo by examining the matter afresh in accordance with law and by passing a speaking order. Reliance in this regard is placed upon the decision of Hon'ble Apex Court in the case of TIN box 249 ITR 216. 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. We however find force in the argument of the Ld. DR that assessee's repeated non-compliance has indeed caused loss of precious time of the statutory authorities. **Accordingly, all the grounds of appeal raised by the assessee on this issue are allowed for statistical purposes.**

7.0 In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 19th , June-2025 at Chennai.

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / Judicial Member

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 19th , June-2025.

KB/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT -
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF