

आयकर अपीलीय अधिकरण, 'बी' (एस एम सी), न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' (SMC) BENCH, CHENNAI**

श्री जॉर्ज जॉर्ज, उपाध्यक्ष के समक्ष
BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT

आयकर अपील सं./ITA No.: 705/CHNY/2025

निर्धारण वर्ष/Assessment Year: 2017-18

**Shri Chinnapaiya Gounder
Manickam,**
259/1, Kerakodahalli
Karimangalam Post,
Dharmapuri – 635 111.

The Income Tax Officer,
Vs. Ward I,
Dharmapuri.

PAN: AOOPM 2306M

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri G. Akash, Advocate
: Smt. Samantha Mullamudi,
Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 26.06.2025

घोषणा की तारीख/Date of Pronouncement

: 26.06.2025

आदेश/ ORDER

This appeal filed at the instance of the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 20.01.2025 passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2017-18.

2. At the very outset, I notice that the order passed by the First Appellate Authority (FAA) is ex-parte, since there was no compliance from the assessee to the various notices issued from the office of the First Appellate Authority. I also note that the FAA had dismissed the appeal of the assessee *in-limine* without adjudicating the issues on merits. Further, the assessment has been completed on best judgment assessment u/s. 144 of the Act.

3. The Ld.AR for the assessee submitted that the FAA has dismissed the appeal for non-compliance and not on merits. The Ld.AR further submitted that since the assessee had not filed the return of income or furnished the details within the time given, the assessment was completed on best judgment assessment. It was prayed, in the interest of justice and equity, assessee may be provided with one more opportunity to present his case before the FAA.

4. The Ld.DR submitted that adequate opportunities were provided from the offices of the FAA & the AO and there is no violation of principles of natural justice. However, she could not controvert the fact that the FAA has dismissed the appeal for non-compliance.

5. I have heard rival submissions and perused the materials on record. The proceedings before FAA was ex-parte, since the assessee did not respond to various notices issued. I strongly deprecate the nonchalant attitude of the assessee in not responding to the notices issued from the offices of the FAA. I also noted that the FAA has simpliciter dismissed the appeal for non-compliance and not adjudicated or decided merits of the case. I find that appellate authority has no jurisdiction to dismiss the appeal for default of non-compliance without going into merits. The FAA is bound to decide the appeal on merits even in the absence of assessee. This view of mine is supported by the decision of Hon'ble High Court of Madras in the case of Southern Steel Industries vs. AAC (CT), reported in [1996] 101 STC 273 (Mad). In term of the above, the order of FAA is set aside.

6. Further, I note that the assessment has also been completed on best judgment basis u/s.144 of the Act. In the interest of justice and fair play, I'm of the view that the matter ought to be restored to the files of the AO. Accordingly, the matter is remitted to the files of the AO for fresh adjudication. The AO shall afford reasonable opportunity of hearing to the assessee. The assessee is directed to co-operate with the Revenue and shall not seek unnecessary adjournment. It is ordered accordingly.

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

Order pronounced in the open court on 26th June, 2025 at Chennai.

Sd/-
(जॉर्ज जॉर्ज के)
(GEORGE GEORGE K)
उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,
दिनांक/Dated, the 26th June, 2025

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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