

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री जगदीश, लेखा सदस्य के समक्ष

BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.880/Chny/2025
निर्धारणवर्ष/Assessment Year: 2017-18

Subramanian Anguraj, No.2, V.N. Doss Road, Mount Road, Chennai-600 002.	v.	The ITO, Non-Corporate Ward-9(1), Chennai.
[PAN: AJZPA 2681 H]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr. J. Saravanan, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Ms. Gouthami Manivasagam, JCIT
सुनवाईकीतारीख/Date of Hearing	:	11.06.2025
घोषणाकीतारीख /Date of Pronouncement	:	04.07.2025

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 28.01.2025 for the Assessment Year (hereinafter referred to as "AY") 2017-18.



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2. At the outset, the Ld.AR of the assessee drawing our attention to the assessment order passed by the AO submitted that the AO has passed a cryptic order of not even one page u/s.144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') [best judgment assessment] by making addition u/s.69A of the Act to the tune of Rs.19,60,500/- & business income at Rs.4,83,617/- by considering only the deposits in the bank account of the assessee. According to the Ld.AR, assessee is a small time business man and the AO taking note that the assessee had deposited Specified Bank Notes (SBNs) of Rs.19,60,000/- in his bank account in the Dena Bank for AY 2017-18, had issued notices asking the assessee to furnish the source of cash deposits (SBNs) during demonetization period, which according to the AO, the assessee failed to reply and therefore, he framed the best judgment assessment as stated supra. On appeal, the Ld.CIT(A) confirmed the same, mainly on the ground that the assessee failed to produce any documents before the AO to prove the nature and source of cash deposits (SBNs) and therefore, the Ld.CIT(A) confirmed the action of the AO. According to the Ld.AR, even though, the assessee filed additional evidences, the Ld.CIT(A) couldn't appreciate the same has passed the impugned order dismissing the appeal of the assessee which is causing great hardship to the assessee. 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), the Ld.AR submits



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that since proper opportunity was not given to the assessee by the AO, the assessment should be restored back to the file of the AO for de novo assessment. On a query from the Bench as to the reason for the assessee not participating during assessment proceedings, the omission was attributed to glitches in the internet, because of which, assessee didn't receive any notices from the AO, which led to the AO passing of the ex parte order. Therefore, the Ld.AR pleads for one more opportunity before the AO and he undertakes to diligently appear before the AO and file all the relevant documents to substantiate the source of SBNs deposited in the bank account of the assessee during demonetization period.

3. Per contra, the Ld.DR submitted that even assessee failed to produce the relevant documents which led to the Ld.CIT(A) to confirm the assessment order and therefore, he doesn't want us to give one more innings to the assessee

4. Having heard both the parties and after perusal of the records, we note that the AO had issued statutory notices to the assessee asking the source of SBNs deposited in his bank account to the tune of Rs.19,60,000/- which was not responded by the assessee, because of which, the AO passed best judgment assessment making addition u/s.69A of the Act of Rs.19,60,500/- and also estimated business income of the



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balance found in the bank account of Rs.25,45,352/- i.e. Rs.4,83,617/-.

On appeal, the Ld.CIT(A) is noted to have confirmed the addition since the assessee failed to produce evidences to substantiate the source of SBNs. Before us, plea of the assessee is that the assessee didn't receive any notices from the AO due to glitches in the internet, because of which, the AO has passed the ex parte order. It appears that due to non-receipt of notices, the assessee was not aware of the assessment proceedings going on before the AO which resulted in the AO passing the ex parte order. In this context, it is necessary to note that as per the scheme of Income Tax Act, the AO is the primary authority to assess the income of the assessee and the Hon'ble Supreme Court in the case of TIN Box Co. v. CIT (supra) has held that if the assessee didn't get proper opportunity before the AO, then, the assessee should be given opportunity before the AO. Considering the facts in the instant case, we are of the view that assessee can't be faulted for not responding to the AO, since notices issued by him wasn't received due to glitches in the internet. Hence, in the interest of justice and fair play, we are of the view that assessee should be given one more opportunity before the AO. Therefore, we are inclined to set aside the impugned order of the Ld.CIT(A) and restore the appeal back to the file of the AO subject to assessee remitting cost of Rs.5,000/- to the State Legal Aid Authority, Hon'ble Madras High Court, and produce necessary proof of depositing of the same before the AO and



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then, the AO to assess the income of the assessee afresh 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 04th day of July, 2025, in Chennai.

Sd/-

(जगदीश)

(JAGADISH)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 04th July, 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