

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

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1305/Chny/2025, Assessment Years: 2014-15

आयकर अपील सं./ITA No.1306/Chny/2025, Assessment Years: 2016-17

M/s.Trac Media Pvt Ltd.,
No.35, 3rd Main Road,
Kalaimagal Nagar,
Ekkattuthangal,
Chennai-600 032.
[PAN: AADCT4184G]

Assistant Commissioner of
Income Tax,
Corporate Circle-20(1),
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri D.Anand, Advocate.
: Ms.E.Pavuna Sundari, CIT(Virtual) &
Ms.V.Supraja, Addl.CIT

सुनवाई की तारीख/Date of Hearing : 17.07.2025

घोषणा की तारीख /Date of Pronouncement : 18.07.2025

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

The below mentioned appeals have been filed by the appellant assessee for AY-2014-15 and 2016-17 contesting the order of Ld. First Appellate Authority indicated Column-E, herein below:-

S. No.	Appeal Nos.	AYs	Appellant	CIT(A) Order Details	Respondent
A	B	C	D	E	F
1	ITA No. 1305 / Chny / 2025	2014-15	M/s.Trac Media Pvt Ltd., No.35, 3 rd Main Road, Kalaimagal Nagar, Ekkattuthangal, Chennai-600 032. [PAN: AADCT4184G]	DIN & Order No.ITBA / NFAC / S / 250 / 2024-25 / 1074800931(1) dated 21.03.2025	Assistant Commissioner of Income Tax, Corporate Circle-20(1), Chennai.
2	ITA No. 1306 / Chny / 2025	2016-17		DIN & Order No.ITBA / NFAC / S / 250 / 2024-25 / 1074802190(1) dated 21.03.2025	

Both the appeals of the assessee are revolving around on common issues and hence were heard together and are adjudicated together.

ITA No.1305/Chny/2025

2.0 At the outset the Ld.Counsel for the assessee submitted that both the lower authorities have passed ex-parte orders without giving due opportunity of being heard. The assessee was stated to be engaged in the business of running a TV Channel. It was submitted that the Ld.AO had passed the assessment order u/s 143(3) dated 29.12.2016 ex-parte by recording assessee's non-compliance to furnish the desired details on page 2 of his order. It was further submitted that the Ld.CIT(A) also recorded assessee's failure to file requisite evidences on page 18 & 21 of his order while confirming the impugned additions. The Ld counsel submitted that the Ld AO had made twin additions of Rs. 60,47,967/- u/s 56 on account of preoperative expenses and of Rs.47,34,465/- on account of sundry creditors. It was submitted that the Ld.AO held that the income earned before the commencement of business was not a part of preoperative activities and hence liable for capitalization. On the issue of sundry creditors the Ld.AO held that the parties to whom notices u/s 133(6) were issued did not respond. In support of its contentions, the Ld.Counsel for issue of preoperative expenses, relied upon the decisions of Hon'ble Madras High Court in the case of Franco Tosi Ingegneria as at

241 ITR 268, of Delhi High Court in the case of Samsung India Electronic as at 360 ITR 354 as well as of Hon'ble Supreme Court in the case of Sarabhai Management Corporation as at 192 ITR 151. It was argued that the impugned cases support the assessee's claims. As regards the issue of sundry creditors the Ld.Counsel argued that it has all the evidence in its possession to establish sources of credit, genuineness of transaction as well as identity of the parties. The Ld. Counsel for the assessee requested for final opportunity and to remit the matter back to the Ld.AO for readjudication de novo. The Ld. Counsel tendered personal assurance that full compliance would now be made to the statutory notices issued by the Revenue.

3.0 Per contra, the Ld. DR relied upon the order of lower authorities. It was stated that the assessee is a habitual defaulter not worthy of any favourable decision.

4.0 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 inadequate 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 persecution by the assessee. We are also not convinced of the argument given in para 6.10 regarding non-admission of the additional evidences filed by the assessee on the premise of non-confirmation of Rule-46A. The Ld.CIT(A) has a responsible appellate authority is also duty bound to educate the tax payer qua any procedures deemed necessary for compliance.

5.0 We have thus noted that inadequate submission of details and evidences, before the lower authorities qua issues seminal to the determination of income 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. Consequently, the decision to remit the matter to the Ld. AO is however subject to payment of cost of Rs.5,000/- (Rupees Five thousand only) by the assessee to the Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras within 30 days of the receipt of this order. **Accordingly, all the grounds of appeal raised by the assessee on this issue are allowed for statistical purposes.**

ITA No.1306/Chny/2025

6.0 At the outset, as regards **ITA No. 1306/Chny/2025, Assessment Years: 2016-17** is concerned 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 engaged in the activity of running TV Channel. It was submitted that the issues under consideration include an addition of Rs.64,834,964/- on account of unexplained liabilities u/s 68 and Rs. 16,62,54,413/- on account of various unexplained business expenses. 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.

7.0 Per contra, the Ld. DR would like to make us believe on the correctness of the order of lower authorities. It was however simultaneously pleaded that costs be imposed upon the appellant for wasting the time of the Bench.

8.0 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. We have thus noted that inadequate submission of details and evidences, before the lower authorities qua sources of 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. Consequently, the decision to remit the matter to the Ld. AO is however subject to payment of cost of Rs.20,000/- by the assessee to the Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras within 30 days of the receipt of this order. **Accordingly, all the grounds of appeal raised by the assessee on this issue are allowed for statistical purposes.**

9.0 In the result, the appeals of the assessee are decided as under:-

ITA Nos	Assessment Year	Result
ITA No. 1305 / Chny / 2025	2014-15	Allowed for Statistical Purposes
ITA No. 1306 / Chny / 2025	2016-17	Allowed for Statistical Purposes

Order pronounced on 18th , July-2025 at Chennai.

Sd/-

(यस यस विश्वनेत्र रवि)

(SS VISWANETHRA RAVI)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 18th , July-2025.

KB/-

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

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