

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

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

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1389/Chny/2025
निर्धारण वर्ष/Assessment Year: 2013-14

Arunachallam Veeraiah, 34/14B Beach Home Avenue, Besant Nagar, Chennai-600 090.	v.	The DCIT, Corporate Circle-10, Chennai.
[PAN: AAIPA 9044 Q]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr. N. Arjun Raj, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Ms. Anitha, Addl.CI
सुनवाईकीतारीख/Date of Hearing	:	15.07.2025
घोषणाकीतारीख /Date of Pronouncement	:	22.08.2025

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 11.04.2025 for the Assessment Year (hereinafter referred to as "AY") 2013-14.

2. At the outset, the Ld.AR of the assessee brought to our notice that the AO had passed an ex parte order after re-opening of assessment u/s.148/147 of the Income Tax Act, 1961 (hereinafter referred to as 'the



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Act'). The Ld.CIT(A) merely taking note of the fact that the AO has passed ex parte order u/s.144 of the Act [best judgment assessment] has restored the assessment back to the file of the AO without considering the legal issue raised by the assessee against the re-opening of assessment. According to the Ld.AR, the legal issue if found valid would go to the root of the jurisdiction of the AO to have reopened the assessment and consequent framing of the assessment order itself. Therefore, according to him, the Ld.CIT(A) ought to have decided the legal issue first and in case if the assessee fails to succeed in its legal issue, then only he ought to have restored the assessment back to the file of the AO for de novo consideration.

3. Per contra, the Ld.DR doesn't want us to interfere with the action of the Ld.CIT(A) since it is undisputed that the AO has passed an ex parte order and in such an event, the Ld.CIT(A) was empowered to restore the assessment back to the AO and therefore, the impugned action should not be interfered.

4. Having heard both the parties and after perusal of the records, we note that the assessee didn't file any return for AY 2013-14. However, based on certain information, the AO has reopened the assessment u/s.147 of the Act by issuing notice u/s.148 of the Act on 30.03.2021. Thereafter, the AO notes that the assessee didn't respond to his statutory



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notices and thereafter taking note that the assessee had received income from sale of immovable property to the tune of ₹1,72,25,000/- as well as paid ₹5,14,822/- against credit card bills during the period is noted to have considered the reply of the assessee dated 16.03.2022 and thereafter, made an addition of ₹1,72,25,000/- & ₹5,14,822/- by passing the order u/s.144/147 of the Act dated 22.03.2022. On appeal, the Ld.CIT(A) finding the assessment order to be an ex parte order, has exercised his power given to him w.e.f.01.10.2024 and restored the assessment back to the file of the AO for fresh assessment. The assessee is in appeal before us against the impugned action of the Ld.CIT(A) and the main grievance of the assessee is that the legal issue raised by the assessee before the Ld.CIT(A) has not been adjudicated by the Ld.CIT(A) and in this regard, drew our attention to Ground Nos.1-5 [as reproduced by the Ld.CIT(A) in the impugned order]. It is noted that assessee before Ld CIT(A) had challenged the validity of the re-opening of assessment by the AO. The Ld.CIT(A) is noted to have not adjudicated the legal issue, which if found valid, then it strikes at the root of the jurisdiction of the AO to have validly reopened the assessment to enable him to pass the re-assessment order. Therefore, according to us, the Ld.CIT(A) was duty bound to decide the legal issue and in case if the assessee fails, then Ld CIT(A) could have restored the assessment back to the file of the AO for de novo assessment provided the assessment was



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passed without hearing the assessee. Hence, the impugned action of the Ld.CIT(A) is found to be erroneous and 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 Ld.CIT(A) with a direction to adjudicate the legal issue raised by the assessee before him in accordance to law after hearing the assessee.

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

Order pronounced on the 22nd day of August, 2025, in Chennai.

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)
लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai,
दिनांक/Dated: 22nd August, 2025.
TLN

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF