

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' 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.1702/Chny/2025
Assessment Years: 2017-18

Ramesh Rani,
No.38/69, Keerthana Traders,
A.C.Street, Nagaramsampatti,
Pochampalli Taluk, Krishnagiri,
Tamil Nadu-635 204.
[PAN: AONPR2397J]

Income Tax Officer,
Ward-1,
Krishnagiri.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by

: Mr.T.S.Lakshmi Venkataraman, F.C.A
(Virtual)

प्रत्यर्थी की ओर से /Revenue by

: Ms.Gouthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing

: 25.08.2025

घोषणा की तारीख /Date of Pronouncement

: 03.09.2025

आदेश / ORDER

PER AMITABH SHUKLA, A.M. :

This appeal is filed by the assessee against the order bearing DIN & Order No.ITBA / NFAC / S / 250 / 2024-25 / 1073848553(1) dated 28.02.2025 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 44 days in the case, in filing of this appeal before the tribunal. In its affidavit the assessee has pleaded that the assessee was not aware of the passing of the appellate order since neither the assessee or its AR received any order / notice through emails. It was only when the assessee was issued penalty notice u/s 271AAC(1) that it dawned upon him that an appellate order has been passed. Further, some time was also lost in coordinating with Chartered Accountant located at a distance, from assessee's location. All these activities contributed to the delay which was neither willful 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 objected to the condonation of the delay and stated that considering repeated non-compliance cost be imposed for wasting the precious time of the courts. We are conscious that no litigant benefits by non-prosecution of its case. We therefore in the interest of justice hereby condone the delay and proceed to adjudicate this appeal.

3.0 At the outset the Ld. Counsel for the assessee informed that the Ld. First Appellate Authority has passed an ex-parte order thereby confirming the assessment order u/s 143(3) / 115BBE dated 16.12.2019 and that the appeal was dismissed for non-compliance to statutory

notices. It was pleaded that the non-compliance of the assessee was attributable to compelling personal difficulties and was not intentional. The Ld. Counsel for the assessee pleaded for setting aside the case and personally assured that full compliance would now be made to the statutory notices issued by the Revenue.

3.0 Per contra the Ld.DR placed reliance upon the order of lower authorities. It was argued that the assessee is a willful defaulter and deserves no relief.

4.0 We have heard the rival submissions in the light of material available on records. It is trite law that no litigant benefits by non-prosecution of its case. The principal issue involves addition of Rs.42,81,792/- u/s 69A r.w.s 115BBE, qua unexplained cash deposits in bank account during the demonetization period. We find sufficient force in the pleadings of the assessee as to why it could not make compliance before the Ld.CIT(A). We have noted that the Ld.AO has made the addition on the chief premise of the cash deposits made through Specified Bank Notes (SBNs) and which were declared illegal tender by the Government of India Notification effective 08.11.2016. It is the case of the Ld.AO that the assessee was not permitted to transact in the SBNs and hence the Ld.AO drew a presumption qua the cash deposits being unexplained with the meanings of section 69A. We have also noted that the Ld.CIT(A) also merely concurred with the findings of the Ld.AO qua

the SBNs losing their credibility as legal tender and therefore any cash deposits in SBNs would assume the character of unexplained amounts of monies. The Ld.Counsel has vehemently argued that the impugned cash deposits have a direct nexus with the business receipts of the assessee and which have been disclosed in the VAT returns also and that therefore there cannot be any case for making any addition u/s 69A r.w.s. 115BBE. The Ld.Counsel has also argued that in the case of TASMALC ITA No.2970/Chny/2025, this tribunal has held that the SBNs lost their credibility as a legal tender only w.e.f 31.12.20016 and that there were no restrictions qua contemporaneous government instructions to not transact in them. We have also noted that apart from merely harping on the issue of non compliance by the assessee the Ld. CIT(A) has not touched adequately upon merits of the case. The assessee on its part has not complied to statutory notices of the Ld.First Appellate Authority. Be that as it may be, we are of the view that the matter concerning cash deposits in SBNs in assessee's bank accounts have not been objectively and comprehensively analyzed by the lower authorities. We are of the view that ends of justice would be met if the assessee is given one last opportunity to present its case and filed supporting evidences before the Ld.AO. The decision to remit it back to the Ld. AO is taken in view of the fact that an Assessing Officer is the fulcrum of assessment proceedings. He possess the first right and responsibilities

to examine facts of a case before arriving at his decision qua determination of taxable income in a particular case. Without prejudice it has also been noted that in this case the Ld. AO did not have adequate opportunities to examine the varied facts seminal therein. We have noted with respectful deference the decision of Hon'ble Apex Court in the case of TIN box 249 ITR 216 on the subject matter. Accordingly, the issue of addition u/s 69 made by the Ld. AO amounting to Rs. 42,81,792/- which have been contested by the assessee through its grounds of appeal stands remitted back to the Ld. AO for fresh adjudication de novo, in accordance with law, and by passing a speaking order. To the extent the order of lower authorities on this issue stands set aside. 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. The assessee is at liberty to produce all the evidences filed through its paper book before us including any other evidences deemed relevant in support of its claims before the Ld. AO during the readjudication proceedings. We however find force in the suggestion of the Ld.DR regarding imposing of costs and therefore this order is subject to payment of cost of Rs.10,000/-(Ten 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 are therefore allowed for statistical purposes.

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

Order pronounced on 3rd, Sept-2025 at Chennai.

Sd/-

(एबी टी. वर्की)

(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 3rd, Sept-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