

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.1705/Chny/2025
Assessment Years: 2017-18

Kubendiran Gopi,
No.39/2A, Panjali Amman Street,
Arumbakkam,
Chennai-600 106.
[PAN: AQPPG5861J]

Income Tax Officer,
Non-Corporate Ward-8(2),
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Mr.Umapathy, C.A,
: Ms.Gouthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing : 25.08.2025
घोषणा की तारीख /Date of Pronouncement : 10.09.2025

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 / 1075210751(1) dated 28.03.2025 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 small delay of 13 days in the case, in filing of this appeal before the tribunal. In its affidavit the

assessee has pleaded that the assessee was under some wrong impression about the continuance of first appellate proceedings. It was further submitted that the delay was also attributable to preoccupation of its auditor in some personal pressing affairs. 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 did not pose any serious objections to the delay. Accordingly, we 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 147 r.w.s. 144B r.w.s.144 r.w.s. 115BBE dated 31.05.2023 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 to Ld.CIT(A) and personally assured that full compliance would now be made to the statutory notices of the Ld. CIT(A).

4.0 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.

5.0 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.1,36,98,076/- u/s 69A qua unexplained cash deposits in bank account of the assessee maintained with ICICI Ban and Karur Vysya Bank. 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 premise of inadequate and deficient compliance by the assessee. We have also noted that apart from merely harping on the issue of no compliance by the assessee the Ld. CIT(A) has not touched adequately upon merits of the case. The assessee on its part has been seen asking for adjournments before the Ld.AO but did not file any details. The Ld.Counsel for the assessee submitted that the assessee is a small fruit seller working on commission basis only. It was stated that the cash deposits in the bank accounts represents sale proceeds made on behalf of principal and assessee merely earned commission on the same. The entire deposit was not assessee's income. It was urged that the assessee is in possession of documents and evidences to explain the veracity of its submissions provided one last

opportunity is given. Be that as it may be in the interest of justice, we set aside the assailed order and remit the matter back to the file of the Ld.CIT(A) for fresh readjudication after giving due opportunity of being heard to the assessee and in accordance with law by passing a speaking order. The assessee shall make necessary compliances and any deviation would be adversely viewed. It has been also urged by the Ld.Counsel that the assessee had requested for video conferencing but it was not provided. Consequently, the Ld.CIT(A) is directed to provide the facility of video conferencing to the assessee, if requested and in accordance with rules covering the subject. **Accordingly, all the grounds raised by the assessee are allowed for statistical purposes.**

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

Order pronounced on 10th, Sept-2025 at Chennai.

Sd/-

(एबी टी. वर्की)

(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 10th, 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