

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.1710/Chny/2025
Assessment Years: 2013-14

Shah A Anand Kumar,
No.30/2, Flowers Road, Kilpauk,
Chennai-600 010.
[PAN: AELPA7544N]

Income Tax Officer,
Corporate Ward-5(2),
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Mr.J.Saravanan, Advocate
: Ms.Gouthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing : 25.08.2025

घोषणा की तारीख /Date of Pronouncement : 10.09.2025

आदेश / O R D E R

PER AMITABH SHUKLA, A.M. :

This appeal is filed by the assessee against the order bearing DIN & Order No.ITBA / NFAC / S / 250 / 2023-24 / 1062523169(1) dated 13.03.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment year 2013-14. 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 378 days in the case, in filing of this appeal before the tribunal. In its affidavit the assessee has

submitted that he has been undergoing domestic problems causing him acute physical and mental depression leading to the impugned delay. 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 save that cost be imposed for wasting the precious time of courts. Accordingly, we hereby condone the delay and proceed to adjudicate this appeal.

3.0 At the outset, as regards 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 which is a primary agricultural cooperative society. It submitted that the only issue under consideration is an addition of Rs.60,58,804/- u/s 68 and of Rs.1,81,764/- u/s 69C. The main issue involved alleged indulgence of the assessee into the shares of any stock companies. Addition of Rs.1,81,764/- u/s 69C was in respect of disallowance of alleged commission payment to the entry providers. The impugned additions were made by the Ld.AO for want of any submission and details by the

assessee. 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 assured that full compliance would now be made to the statutory notices.

4.0 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.

5.0 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 persecution by the assessee.

6.0 We have thus noted that inadequate submission of details and evidences, before the lower authorities qua its transactions under taken for shares of penny stock companies 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. 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. 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. 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 of sale proceeds on account of scrips of penny stock companies and the expenditure of commission paid to entry providers which have been contested by the assessee through its grounds of appeal supra stands remitted back to the Ld. AO for fresh adjudication de novo 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 also find sufficient force in the argument of the Ld.AO that the conduct of non-compliance before the lower authorities has indeed contributed to colossal waste of precious time of the judicial authorities. Consequently, this order is however subject to payment of cost of Rs.10,000/- (Rupees 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.**

7.0 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