

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनथ लेखक सदस्य के समक्ष
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: 2077/Chny/2025
निर्धारण वर्ष / Assessment Year: 2017-18

Sastha Hospitality, No.1/1, Abith Nagar, Choolaimedu S.O, Nungambakkam, Chennai – 600 094. Tamil Nadu.	vs.	Income Tax Officer, Non-Corp Ward-19(3) Chennai.
[PAN: ACLFS-6402-R] (अपीलकर्ता/Appellant)		(प्रत्यर्थी/Respondent)

अपीलकर्ता की ओर से/Appellant by : Ms. Manjusha B, CA.
प्रत्यर्थी की ओर से/Respondent by : Mr. Bipin C.N, CIT.

सुनवाई की तारीख/Date of Hearing : 17.09.2025
घोषणा की तारीख/Date of Pronouncement : 13.10.2025

आदेश / ORDER

PER S. R. RAGHUNATHA, AM :

This appeal by the assessee is filed against the order of the learned Commissioner of Income Tax (Appeal), NFAC, Delhi, (in short Ld. CIT(A)) for the assessment year 2017-18, vide order dated 15.01.2025.

2. At the outset, we find that there is a delay of 119 days in appeal filed by the assessee, for which petition for condonation of delay along with reasons. The partner in the assessee's firm submitted an affidavit for the delay stating that the assessee was a key partner of the firm, who was coordinating tax matters and he was unable to timely coordinate with its

authorized representative to initiate the process of filing the appeal due to his mother was lost during the relevant period, which led to significant personal and emotional hardship and hence there was a delay in filing the present appeal and prayed that the delay may please be condoned. After considering the petition filed by the assessee and also hearing both the parties, we find that there is a reasonable cause for the assessee in not filing appeal on or before the due date prescribed under the law and thus, in the interests of justice, we condone delay in filing of appeal and admit appeal filed by the assessee for adjudication.

3. Brief facts of the case are that the assessee is partnership firm engaged in business of food and beverages and had not filed its return of income for the A.Y.2017-18. As per information available with the department, the assessee made cash deposits to the tune of Rs.16,12,030/- during the demonetization period and there are credits of Rs.22,64,08,460/- in various bank accounts maintained by the assessee. The Assessing Officer completed the assessment proceedings u/s.144 of the Act on 23.09.2019, by making only addition of cash deposits of Rs.16,12,030/- made during the demonetization period.

Since, the Assessing Officer failed to verify and examine the source for the credit of Rs.22,64,08,460/- due to absence of proper evidence and the credits treated as unexplained investment u/s.69 of the Act, the PCIT, Chennai-3 invoked provisions of Section 263 of the Act and passed an order u/s.263 of the Act dated 29.03.2022 directing the Assessing Officer to reframe the assessment by setting aside the assessment order passed u/s.144 of the Act on 23.09.2019. Accordingly, the statutory notices were issued to the assessee to file the required details. Since, the assessee did not participate in the assessment proceedings by not responding to the statutory notices, the AO made an addition of Rs.22,64,08,460/- as

unexplained income and taxed u/s.68 r.w.s 115BBE of the Act and concluded the assessment u/s.144 r.w.s 263 of the Act dated 07.03.2023.

4. Aggrieved by the order of the AO, the assessee preferred an appeal before the Id.CIT(A), NFAC on 06.04.2023.

5. At the outset, we observed that Id.CIT(A) has provided five opportunities for the assessee to appear for hearings as detailed in paragraph 1.1 of the Id.CIT(A) order to support the appeal of the assessee from 03.10.2024 to 19.12.2024. However, the assessee chose to be silent and did not respond to any of the notices and hence, the Id.CIT(A), NFAC dismissed the assessee's appeal by confirming the order of the AO by passing an order dated 15.01.2025. The Id.AR submitted that the assessee had not regularly checked the income tax portal and his email and hence he was not aware of the notices issued by the Id.CIT(A) and hence he could not appear both before the AO as well as the Id.CIT(A). In view of the above, the Id.AR prayed for one more opportunity before the AO, since the exparte order has been passed by the AO u/s.144 of the Act. Further, Id.AR assured the bench that the Id.AR will represent on behalf of the assessee before the AO to complete the assessment proceedings effectively.

6. Per contra, the Id.DR submitted that both the Assessing Officer and the Id.CIT(A) provided sufficient opportunity to appear before them. However, the assessee has been negligent in responding to the statutory notices and hence, prayed for confirming the order of the Id.CIT(A).

7. We have heard the rival parties and perused the material available on record and gone through the orders of the lower authorities. We note that the AO has passed an exparte order by considering the information available with the department and the same has been dismissed by the Id.CIT(A) - NFAC due to non-participation of the assessee before the first

appellate authority. Since, the assessee has failed to participate both before the Assessing Officer and the Id.CIT(A), we levy the cost of Rs.10,000/- to be paid to State Legal Aid Authority, Hon'ble High Court of Madras and produce proof of payment of cost to the Registry within 30 days from the date of receipt of this order.

8. In view of the above and to meet the ends of justice we set aside the order of Id.CIT(A) and remit the matter back to the file of AO and direct the AO to denovo frame the assessment order in accordance to law, after providing reasonable opportunity to the assessee. Needless to say, the assessee to be diligent and file written submissions and relevant documents if advised so

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

Order pronounced in the court on 13th October, 2025 at Chennai.

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य/**JUDICIAL MEMBER**

Sd/-

(एस. आर. रघुनाथा)

(S. R. RAGHUNATHA)

लेखासदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated, the 13th October, 2025

jk

आदेश की प्रतिलिपि □ ग्रेषित/Copy to:

1. □ पीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT- Chennai/Coimbatore/Madurai/Salem

4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF