

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.3068/Chny/2025
&
Stay Petition No.104/Chny/2025
निर्धारण वर्ष/Assessment Year: 2016-17

Paneerselvam Subramanian, No.476, Kattbomman Street, Vyasarpadi, Chennai-600 039. [PAN: AYEPP 4808 K]	v.	The ITO, Non-Corporate Ward-5(1), Chennai.
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr. Sanjay Aravind, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Ms. R. Anitha, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	04.02.2026
घोषणाकीतारीख /Date of Pronouncement	:	11.02.2026

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 17.10.2025 for the Assessment Year (hereinafter referred to as "AY") 2016-17. SP No.104/Chny/2025 is a Stay Petition filed by the assessee against the demand raised for AY 2016-17.



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2. At the outset, the Ld.AR of the assessee submitted that the impugned order of the Ld.CIT(A) is an ex parte order qua assessee confirming addition of ₹52,50,000/- and pointed out that the Ld.CIT(A) has dismissed the appeal as not maintainable for the reason that the assessee neither filed the return of income (RoI) nor paid amount advance tax that was payable as required u/s.249(4) of the Income Tax Act, 1961 (hereinafter referred to as "the Act"). The assessee is in appeal before us, against the impugned order as huge burden has been fastened on the assessee by the ex parte order passed by the Ld.CIT(A). In this regard, he also pointed out that the AO has also passed ex parte order qua assessee making an addition of ₹52,50,000/-. It was also brought to our notice that the AO after passing the assessment order on 26.03.2024 making an addition of ₹52,50,000/- had levied penalty by passing order on 09.09.2024, which was also dismissed by the Ld.CIT(A) by order dated 28.12.2024 which action of the Ld.CIT(A) was challenged by the assessee before this Tribunal [in ITA No.612/Chny/2025] wherein the Tribunal was pleased to restore the penalty appeal back to the file of the Ld.CIT(A) vide order dated 30.04.2025. Therefore, he prayed that one more opportunity may be given to the assessee to prove the claims raised by assessee, by submitting all the evidences before the AO and cited the decision of the Hon'ble Supreme Court in the case of TIN Box Co. v. CIT reported in [2001] 249 ITR 216 (SC).



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3. Per contra, the Ld.DR opposes the plea of the assessee and doesn't want us to give one more opportunity to the assessee.

4. Having heard both the parties and after perusal of the records, we note that the assessee didn't file RoI for AY 2016-17, and the AO, after reopening the case of the assessee, has passed quantum assessment on 26.03.2024, by making an addition of ₹52,50,000/-. On appeal, the Ld.CIT(A) has refused to admit the appeal on the ground that the assessee didn't pay the amount of advance tax that was payable as required u/s.294(4) of the Act. Before us, the Ld.AR of the assessee pleaded for one more opportunity before the Assessing Authority/AO. We note that both the authorities below has passed ex parte orders in this case and therefore relying on the decision of the Hon'ble Supreme Court in the case of TIN Box Co. (supra), we remit the matter back to AO for fresh assessment. In the case of TIN Box Co. (supra), the Hon'ble Supreme Court held as under:

1. It is unnecessary to go into great detail in these matters for there is a statement in the order of the Tribunal, the fact-finding authority, that reads thus :

"We will straightaway agree with the assessee's submission that the Income-tax Officer had not given to the assessee proper opportunity of being heard."

2. That the assessee could have placed evidence before the first appellate authority or before the Tribunal is really of no consequence for it is the assessment order that counts. That order must be made after the assessee has been given a reasonable opportunity of selling out his case. We, therefore, do not agree with the Tribunal and the High Court that it was not necessary to set aside the order of assessment and remand the



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matter to the assessing authority for fresh assessment after giving to the assessee a proper opportunity of being heard.

3. Two questions were placed before the High Court, of which the second question is not pressed.

The first question reads thus:

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in not setting aside the assessment order in spite of a finding arrived at by it that the Income-tax Officer had not given a proper opportunity of hearing to the assessee?"

4. In our opinion, there can only be one answer to this question which is inherent in the question itself: in the negative and in favour of the assessee.

5. The appeals are allowed. The order under challenge is set aside. The assessment order, that of the Commissioner (Appeals) and of the Tribunal are also set aside. The matter shall now be remanded to the assessing authority for fresh consideration, as aforestated. No order as to costs.

5. Respectfully following the decision of the Hon'ble Supreme Court in the case of TIN Box Co. (supra), and also taking note that the assessee didn't get proper opportunity before the AO since notices couldn't be served upon him may be due to the glitches in the internet/system, we are of the view that one more opportunity should be given to the assessee. Therefore, we set aside the impugned order of the Ld.CIT(A) and restore the assessment back to the file of the AO for de-novo assessment. The Ld.AR is directed to file all the relevant documents and written submissions before the AO and the AO to pass order in accordance to law after hearing the assessee.

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



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7. In the light of the aforesaid decision of ours, Stay Petition filed by the assessee has become infructuous and hence dismissed.

8. In the result, appeal filed by the assessee is allowed for statistical purposes and Stay Petition filed by the assessee is dismissed as infructuous.

Order pronounced on the 11th day of February, 2026, in Chennai.

Sd/-

(एस. आर. रघुनाथा)

(S.R.RAGHUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 11th February, 2026.

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