

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री डि.एस. सुन्दर सिंह, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2632/Mds/2016

निर्धारण वर्ष / Assessment Year : 2003-04

M/s Sunbright Designers Pvt. Ltd.,
Module No.6, SIDCO Readymade
Garment Complex,
Guindy Industrial Estate,
Guindy, Chennai - 600 032.

v. The Assistant Commissioner of
Income Tax,
Corporate Circle 6(2),
Chennai - 600 034.

PAN : AADCS 6265 P

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri G. Seetharaman, CA

प्रत्यर्थी की ओर से/Respondent by : Shri Murali Mohan, JCIT

सुनवाई की तारीख/Date of Hearing : 14.12.2016

घोषणा की तारीख/Date of Pronouncement : 27.12.2016

आदेश /ORDER

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) – 15, Chennai, dated 12.07.2016 and pertains to assessment year 2003-04.

2. The only issue arises for consideration is with regard to condonation of delay of 34 days in filing the appeal before the CIT(Appeals).

3. We have heard Shri G. Seetharaman, the Ld. representative for the assessee and Shri Murali Mohan, the Ld. Departmental Representative. The claim of the assessee before the CIT(Appeals) was that the accountant, who received the copy of the order of the Assessing Officer, resigned the job, therefore, the assessee could not file appeal before the CIT(Appeals) within the period prescribed. The fact remains that the delay in filing the appeal was only 34 days. No doubt, the assessee is expected to explain the reasons for delay in filing the appeal before the CIT(Appeals). The explanation of the assessee is that the accountant, who received the order of the Assessing Officer, resigned the job, therefore, there was a delay. This Tribunal is of the considered opinion that the Income-tax Act, being a special enactment for assessment of income, levy of tax on income and collection of tax, the Revenue authorities cannot recover any tax unless the same is authorized by law. Therefore, for every levy of tax, it has to be authorized by law. Limitation, of course, is one of the factors to be considered in order

to ensure finality in the litigation. However, in this case, the delay is only 34 days. Therefore, condoning the delay of 34 days in filing the appeal before the CIT(Appeals) may not prejudice the Revenue in any way. This Tribunal is of the considered opinion that condoning the delay of 34 days in filing appeal before the CIT(Appeals) would definitely promote the cause of justice and enhance the confidence of the citizens on judicial system.

4. Even otherwise, the delay was caused due to resignation of the accountant who said to have received the copy of the order of the Assessing Officer. Therefore, the delay in filing the appeal has to be condoned. Accordingly, the impugned order of the CIT(Appeals) is set aside and the delay of 34 days in filing the appeal before the CIT(Appeals) is condoned. Now the appeal of the assessee stands restored on the file of the CIT(Appeals). The CIT(Appeals) is hereby directed to dispose of the appeal on merit, after giving a reasonable opportunity to the assessee.

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 27th December, 2016 at Chennai.

Sd/-

(डि.एस. सुन्दर सिंह)

(D.S. Sunder Singh)

लेखा सदस्य/Accountant Member
Member

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial

चेन्नई/Chennai,

दिनांक/Dated, the 27th December, 2016.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-15, Chennai-34
4. आयकर आयुक्त/CIT-6, Chennai-34
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.