

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

श्री जॉर्ज माथन, न्यायिक सदस्य एवं
श्री एस जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.663/Mds/2017
निर्धारण वर्ष /Assessment Year: 2011-12

M/s.Haripriya Thanga Maalikai, 253, Cross Cut Road, Gandhipuram, Coimbatore-641 012. **Vs.** The Asst. Commissioner of Income Tax, Circle-II, Coimbatore.

[PAN: AABFH 4996 H]

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by	:	None
प्रत्यर्थी की ओर से /Respondent by	:	Mr.Sasikumar, JCIT
सुनवाई की तारीख/Date of Hearing	:	14.06.2017
घोषणा की तारीख /Date of Pronouncement	:	14.06.2017

आदेश / O R D E R

PER GEORGE MATHAN, JUDICIAL MEMBER:

ITA No.663/Mds/2017 is an appeal filed by the assessee against the Order of Commissioner of Income Tax (Appeals)-2, Coimbatore, in ITA No.206/14-15 dated 30.12.2016 for the AY 2011-12.

2. Shri Sasikumar, JCIT, represented on behalf of the Respondent and **None** represented on behalf of the Appellant.

3. Adjournment letter has been filed on behalf of the assessee stating that the Counsel is out of station. However, as the issues in this appeal are quite small and as the facts required to decide the appeal are available on the record, the adjournment application filed by the assessee stands rejected and the appeal disposed off.

4. In the Grounds of the assessee's appeal, the assessee has challenged the action of the Ld.CIT(A) in not condoning the delay of 176 days in filing of the appeal. It was submitted by the Ld.DR that the appeal filed by the assessee was liable to be dismissed as the Ld.CIT(A) has rejected the condonation of delay in filing the appeal on the ground that the petition for condonation has been drafted in haphazard manner. He vehemently supported the Order of the Ld.CIT(A).

5. We have considered the submissions. A perusal of the Order of the Ld.CIT(A) and also statement of facts filed before the Ld.CIT(A) clearly show that the Appellant was under bona fide belief that one appeal was required to be filed against both the assessment and penalty. It is only on getting advice from the representative of the assessee that he has filed two separate appeals. This bona fide belief of the assessee has not been shown to be wrong. Further, when technicality is pitted against substantial justice, technicality must stand down and let substantial justice prevail. In view of this, we are of the view that the delay in filing of the

appeal by the assessee of 176 days before the Ld.CIT(A) is liable to be condoned and we do so. In the circumstances, the delay in filing of the appeal before the Ld.CIT(A) stands condoned and the issues in the appeal are restored to the file of the Ld.CIT(A) for adjudication on merits.

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

Order pronounced in the Open Court on June 14, 2017, at Chennai.

Sd/-

(एस जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: June 14, 2017.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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