

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

श्री जॉर्ज माथन, न्यायिक सदस्य एवं
श्री ए. मोहन अलंकामणी, लेखा सदस्य के समक्ष

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER, AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.710/Mds/2017
निर्धारण वर्ष /Assessment Year: 2009-10

Smt. Rekha Gadhiya,
No.24, Dr.B.N.Road,
T.Nagar, Chennai-600 017.

Vs. The Asst. Commissioner of
Income Tax,
Central Circle III(4),
Chennai-34.

[PAN: AAFPR 5122 B]

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr.D.Anand, Adv.

प्रत्यर्थी की ओर से /Respondent by

: Mr.Saskikumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 15.06.2017

घोषणा की तारीख /Date of Pronouncement

: 15.06.2017

आदेश / O R D E R

PER GEORGE MATHAN, JUDICIAL MEMBER:

ITA No.710/Mds/2017 is an appeal filed by the assessee against the Order of Commissioner of Income Tax (Appeals)-19, Chennai, in ITA No.41/12-13 dated 20.02.2017 for the AY 2009-10.

2. Shri Saskikumar, JCIT represented on behalf of the Revenue and Shri D.Anand represented on behalf of the assessee.

3. It was submitted by the Ld.AR that when filing the appeal before the Ld.CIT(A), there was a delay in 183 days. It was a submission that the delay was on account of the Manager of the assessee's husband's Office had misplaced the papers of the assessee and immediately when the same was traced, the appeal has been filed. It was a prayer that the delay in filing of the appeal before the Ld.CIT(A) may be condoned.

4. In reply, the Ld.DR vehemently supported the Order of the Ld.CIT(A). It was a submission that only when the penalty u/s.271(1)(c) was levied, the assessee has preferred to file the appeal with the delay of 183 days.

5. We have considered the rival submissions. The assessee has given a reasonable cause for the delay in filing of the appeal. The affidavit of the Manager has also been placed on record. This affidavit has not been shown to be false. In the absence of the falsity of the assessee's bona fide claim, the same cannot be overlooked. Further, when substantial justice is pitted against technicalities, technicalities should normally give way. In these circumstances, we are of the view that the delay of 183 days in filing of the appeal before the Ld.CIT(A) is liable to be condoned and we do so. In the circumstances, the delay in filing of the appeal is condoned and the appeal is restored to the file of the Ld.CIT(A) for re-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 15, 2017, at Chennai.

Sd/-

(ए. मोहन अलंकामणी)

(A. MOHAN ALANKAMONY)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: June 15, 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