

आयकर अपीलीय अधिकरण, B/‘SMC’ न्यायपीठ, चेन्नई ।

IN THE INCOME TAX APPELLATE TRIBUNAL
B/“SMC” BENCH, CHENNAI

श्री. चंद्र पूजारी लेखा सदस्य , के समक्ष ।

BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER

I.T.A.No.1280/Mds./2016

(Assessment Years : 2009-10)

Shri T.M.Syed Ali,
No.1,1st floor, Corporation complex,
Pudupet, Chennai 600 002.

Vs. The Income Tax Officer,
Ward VII(4),
(Presently Non-Corporate
ward 9(4),Chennai.

PAN AQEPS 6440 A
(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by

: Mr.S.Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Mr.V.Sreenivasan, JICIT, D.R

सुनवाई की तारीख/ Date of hearing : 22.06.2017

घोषणा की तारीख /Date of Pronouncement : 22.06.2017

आदेश / O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal is filed by the assessee , aggrieved by the order of the Learned Commissioner of Income Tax(A)-10, Chennai dated 30.11.2015 pertaining to assessment year 2009-10.

2. The assessee in this appeal has challenged the addition of 44,17,973/- being the sundry creditors balance for non-furnishing required evidence.

3. At the outset, it is observed that there was a delay of 102 days in filing the appeal before this Tribunal. This was pointed out to the assessee by issue of notice through RPAD dated 30.05.2016 and the same was served to the assessee on 13.06.2016. However, the case was posted for hearing before this Tribunal on 28.07.2016, 19.10.2016, 13.04.2017 and finally on 22.06.2017. However, the defective was continued and the assessee has not taken any step to file a condonation petition for delay of 102 days in filing the appeal before us.

4. After hearing both the parties and perusing the material on record, I am of the opinion that in this case, the delay of 102 days in filing the appeal before this Tribunal is very inordinate delay, it cannot be condoned on simple reason that the case calls for sympathy or merely out of benevolence to the party seeking relief. In granting the

indulgence and condoning the delay, it must be proved beyond the shadow of doubt that the appellant was diligent and was not guilty of negligence, whatsoever. The sufficient cause within the contemplation of the limitation provisions must be a cause which is beyond the control of the party invoking the aid of the provisions. The Hon'ble Supreme Court in the case of Ramlal Vs. Rewa Coalfields Ltd. in AIR 1961 (SC) 361 has held that the cause for the delay in filing the appeal, which by due care and attention, could have been avoided, cannot be a sufficient cause within the meaning of the limitation provision. Where no negligence or inaction, or want of bonafides can be imputed to the appellant, a liberal construction of the provisions has to be made in order to advance substantial justice.

4.1 In my opinion, the approach of the assessee herein is very casual and requires no sympathy from our end, since the assessee has not responded either notice issued by Tribunal dated 30.05.2016 or many dates of hearing provided by Tribunal at the request of Id.A.R. The law assists those who are vigilant, not those who sleep over their rights. This principle is embodied in the dictum: vigilantibus

non doementibus jura subveniunt. Accordingly, we are inclined to dismiss the appeal of the assessee as unadmitted

5. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court after conclusion of hearing on 22nd June, 2017.

Sd/-
(चंद्र पूजारी)
(CHANDRA POOJARI)
लेखा सदस्य /ACCOUNTANT MEMBER

Chennai,
Dated the 22nd June, 2017.

K s sundaram.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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