

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL  
BENCH 'D', CHENNAI

श्री संजय अरोड़ा, लेखा सदस्य एवं श्री जी. जॉर्ज माथन, न्यायिक सदस्य के समक्ष  
BEFORE SHRI SANJAY ARORA, ACCOUNTANT MEMBER  
AND SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं./ITA No.2918/Mds/2016

निर्धारण वर्ष / Assessment Year : 2012-13

Tamilnadu Petro Products Ltd.,  
PB no.9, Manali Express Highway,  
Manali,  
Chennai – 600 068.  
[PAN: AAAC1295M]

(अपीलार्थी /Appellant)

Dy. Commissioner of Income  
Tax,  
Large Taxpayer Unit-1,  
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S.Sridhar, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri Pathalavath Peerya, CIT  
सुनवाई की तारीख/ Date of hearing : 14.06.2017  
घोषणा की तारीख /Date of Pronouncement : 29.06.2017

**आदेश /O R D E R**

Per Sanjay Arora, AM:

This is an Appeal by the Assessee directed against the Order by the Disputes Resolution Panel-2, Bangalore ('DRP' for short) dated 05.03.2016, contesting its assessment u/s. 143(3) r/w s.144C of the Income Tax Act, 1961 ('the Act' hereinafter) for assessment year (AY) 2012-13.

2. The only issue in this appeal, is if the Id. DRP ought to have, in the facts and circumstances of the case, condoned the three day delay in filing the objections by the assessee – which are to be within 30 days of the communication of the draft order to it, before the DRP. The Id. DRP has

declined to condone the delay on the ground of want of power for the same under the Income Tax (Disputes Resolution Panel) Rules, 2009, which govern its functioning, including procedure to be followed by it.

3. Before us the Id. Authorized Representative (AR) would submit that the minor delay of three days occurred on account of the wrong noting of the date by the counsel, and is not reflective of any lack of earnestness on the part of the assessee in filing the objections. Reliance was placed by him on the decision by the Tribunal in *Tenova India Pvt. Ltd. v. Asst. CIT* (in ITA No.3477/Mds/2016 dated 05.06.2017), placing a copy of the same on record. The tribunal therein, on being satisfied with the reasons for the delay, which was again for three days, condoned the same and restored the matter back to the file of the DRP for adjudicating the assessee's application on merits. The Id. Departmental Representative (DR) would respond by stating that the reason for the delay is not supported by an affidavit by either the assessee or its counsel.

4. We have heard the parties, and perused the material on record.

No doubt the reason should have been stated preferably per a sworn affidavit or at least in writing under signature. So, however, we are wont to give equal credence to the statement at bar by the Id. AR. The delay is for a small period and could have occurred on account of some misunderstanding. It, in fact, confirms the earnestness on the part of the assessee to participate in the proceedings before the DRP. Under the circumstances, we are, in the interest of justice, inclined to condone the same. The matter is accordingly restored back to the file of the Id. DRP, setting aside its earlier order, for deciding the assessee's objections on merits upon allowing due opportunity for representation. We decide accordingly, also drawing support from the order in *Tenova India Pvt. Ltd.* (supra). Under the circumstances, we do not consider it necessary and

proper to adjudicate the other grounds of appeal i.e., besides Gd. 3, raised by the assessee before us.

5. In the result, the assessee's appeal is partly allowed.

*Order pronounced on June 29, 2017 at Chennai.*

Sd/-

(जॉर्ज माथन)

(George Mathan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, June 29, 2017.

*EDN*

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

Sd/-

(संजय अरोड़ा)

(Sanjay Arora)

लेखा सदस्य/Accountant Member