

आयकर अपीलुीय अधलकरण, 'डी' नुयायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'D' BENCH : CHENNAI

शुी एन.आर.एस. गणेशन, नुयायलक सदसुय एवं  
शुी अब्राहम पी. जॉर्ज, लेखा सदसुय के समक्ष ।  
[BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER]

आयकर अपील सं./I.T.A. No. 3391/CHNY/2016.

नुलरुधरण वरुष /Assessment year : 2010-2011.

Fidelis Advertising &  
Marketing Private Ltd,  
No.72- G, Chesney Estate,  
Commander-in-Chief Road,  
Chennai 600 105.

**Vs.** The Assistant Commissioner  
of Income Tax,  
CPC,  
Bengaluru.

[PAN AABCS 1871R]  
(अपीलार्थी/Appellant)

(प्रतुयर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Ms. S. Deepasri, Advocate.  
प्रतुयर्थी की ओर से /Respondent by : Mrs. S. Vijayaprabha, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing : 13-03-2018  
घोषणा की तारीख /Date of Pronouncement : 05-04-2018

**आदेश / ORDER**

**PER ABRAHAM P. GEORGE, ACCOUNTANT MEMBER**

Assessee in this appeal which is directed against an order dated 21.06.2016 of Id. Commissioner of Income Tax (Appeals)-6, Chennai is aggrieved that Id. Commissioner of Income Tax (Appeals) dismissed its appeal for want of prosecution.

**2.** Ld. Counsel for the assessee submitted that this appeal has been filed with a delay of 109 days. As per the Id. Authorised Representative, the order of the Id. Commissioner of Income Tax (Appeals) was received by the Id. Authorised Representative who went out of town on official tour. According to him, said representative could not handover the order and documents to its Auditor. As per the Id. Authorised Representative, the representative returned only after three months and immediately thereafter the appeal was filed. Thus, according to him, there was a reasonable cause for condoning the delay.

**3.** Strongly opposing the petition, Id. Departmental Representative submitted that the delay was not satisfactorily explained. Further, according to him, assessee despite number of opportunities given to it had never entered appearance before the Id. Commissioner of Income Tax (Appeals). As per the Id. Departmental Representative the law should only help diligent assessee's and not those who knowingly ignore their lawful duties.

**4.** We have perused the orders and heard the rival contentions. In our opinion, for the delay which was due to the fault of the Id. Authorised Representative, assessee could not be put in peril. That

apart, we find the Id. Commissioner of Income Tax (Appeals) had disposed the appeal ex-parte for a reason that assessee was not interest in prosecuting the appeal filed before the Id.CIT(A). In our opinion, Id. Commissioner of Income Tax (Appeals) has to dispose of the appeal on merits irrespective of whether assessee appears before him or not. In the facts and circumstances, we condone the delay, admit the appeal and send it back to the file of the Id. Commissioner of Income Tax (Appeals) for consideration afresh in accordance with law.

5. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced on Thursday, the 5th day of April, 2018, at Chennai.

**Sd/-**

(एन.आर.एस. गणेशन)

**(N.R.S. GANESAN)**

**न्यायिक सदस्य/JUDICIAL MEMBER**

**Sd/-**

(अब्राहम पी. जॉर्ज)

**(ABRAHAM P. GEORGE)**

**लेखा सदस्य/ACCOUNTANT MEMBER**

चेन्नई/Chennai

दिनांक/Dated:5<sup>th</sup> April, 2018.

**KV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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