

**आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH, CHENNAI**  
**श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष**  
**BEFORE SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER**  
**AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A.No.2675/Chny/2016  
(निर्धारण वर्ष / Assessment Year: 2004-05)

Shri K. Ramdevan, No.2, First Street, Dr. B.N. Road, T. Nagar, Chennai – 600 017.	Vs	The Addl. Commissioner of Income Tax, Company Range – II, Chennai.
PAN: AAEP2346E		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से /Assessee by	:	Shri K. Ramdevan, Assessee
राजस्व की ओर से /Revenue by	:	Shri N. Madhavan, Addl. CIT

सुनवाई की तारीख /Date of hearing	:	24.04.2018
घोषणा की तारीख /Date of Pronouncement	:	26.04.2018

**आदेश / ORDER**

**Per A. Mohan Alankamony, AM:-**

This appeal by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals)-6, Chennai dated 19.04.2016 in ITA No.128/CIT(A)-6/2009-10 for the assessment year 2004-05 passed U/s.249(3) r.w.s. 271D of the Act.

2. The appeal was filed by the assessee with a delay of 74 days.

The assessee submitted that the delay had occurred due to the ill-

health of the auditor of the assessee. The assessee has also filed an affidavit confirming the same. The assessee who was present before the Bench pleaded that because of the afore stated reasons the delay in filing the appeal before the Tribunal may be condoned. Considering the prayer of the assessee, we are of the considered view that the assessee had a reasonable cause for not filing the appeal within the limitation period. Therefore in the interest of justice, we hereby condone the delay of 74 days in filing the appeal by the assessee and proceed to hear the appeal on merits.

3. The assessee has raised six grounds in his appeal however the crux of the issue is that the Ld.CIT(A) has dismissed the appeal of the assessee in limini because the appeal was not filed within the period of limitation before the Ld.CIT(A).

4. The brief facts of the case are that the assessee is an individual deriving income from salary, business, interest income and dividend, trading of shares classified as income from non-speculation business and income from speculation business, filed his return of income for the assessment year 2004-05 on 18.02.2005, admitting loss of Rs.2,32,717/-. Initially the return was processed U/s.143(1) of the Act on 30.12.2005. Subsequently the case was selected for

scrutiny and notice U/s.143(2) of the Act was issued on 12.09.2005. Finally the assessment order was passed U/s.143(3) of the Act on 18.10.2006 wherein the Ld.AO made addition of Rs.11,78,619/- towards disallowance of interest on speculation loss and Rs.9,64,710/- towards disallowance of loss on sale of shares. Thereafter show cause notice U/s.271D dated 13.10.2008 and penalty of Rs.1,98,800/- was levied. Subsequently the assessee preferred an appeal before the Ld.CIT(A). However the Ld.CIT(A) dismissed the appeal of the assessee because the assessee had not filed the appeal within the period of limitation. Aggrieved by the order of the Ld.CIT(A), the assessee is now in appeal before us.

5. At the outset the assessee submitted before us that the counsel of the assessee was consistently ill over a prolonged period due to which there was a delay in filing the appeal. It was therefore pleaded that the delay in filing the appeal before the Ld.CIT(A) may be condoned and the matter may be remitted back to the file of Ld.CIT(A) to decide the issue on merits. The Ld.DR strongly objected to the submission of the assessee.

6. We have heard the rival submissions and carefully perused the materials available on record. Keeping in view of the prayer of the

assessee, we hereby remit the matter back to the file of Ld.CIT(A) with directions to condone the delay in filing the appeal and hear the appeal on merits and thereafter pass appropriate order in accordance with law. At the same time, we also caution the assessee to promptly co-operate before the Ld.CIT(A) in his proceedings in order to expedite his Order failing which the Ld.CIT(A) shall be at liberty to pass appropriate Order based on the materials on record.

7. In the result the appeal of the assessee is allowed for statistical purposes as indicated herein above.

Order pronounced on the 26<sup>th</sup> April, 2018 at Chennai.

Sd/-

(धुव्वुरु आर.एल रेड्डी)

( Duvvuru RL Reddy )

न्यायिक सदस्य /Judicial Member

Sd/-

(ए. मोहन अलंकामणी)

( A. Mohan Alankamony )

लेखा सदस्य / Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 26<sup>th</sup> April, 2018

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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