

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
' C ' BENCH : CHENNAI

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

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

आयकर अपील सं./I.T.A.No.1544/Chny/2018

निर्धारण वर्ष /Assessment year :2012-13

Shri Hubert Joseph Jude Aruldoss, Vs. The ACIT,
New No.128, Old No.43,Appu St., Non Corporate Circle-1,
Santhome,Chennai 600 028. Chennai.

[PAN ABIPJ 8053 F]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr.K.Meenakshi sundaram,ITP
प्रत्यर्थी की ओर से /Respondent by : Mr.Clement Ramesh Kumar,
Additional CIT,D.R

सुनवाई की तारीख/Date of Hearing : 08-10-2018
घोषणा की तारीख /Date of Pronouncement : 09-10-2018

आदेश / ORDER

PER GEORGE MATHAN, JUDICIAL MEMBER

This is an appeal filed by the assessee against the order of the Commissioner of Income-tax (Appeals)-2, Chennai in ITA No.17/2015-16/A.Y 2012-13/CIT(A)-2, dated 10.03.2018 for the assessment year 2012-13.

2. Mr.Meenakshi sundaram represented on behalf of the Assessee and Mr.Clement Ramesh Kumar represented on behalf of the Revenue.

3. At the time of hearing, the Id.A.R filed a written submissions dated 08.10.2018 as follows:-

*"I.T.A. Nos. 1544/Chennai/2018
Assessment year 2012-2013
Submissions on behalf of the appellant.*

The assessee received only one hearing notice. Assessee's representative Sri. Fernando appeared for the same and took an adjournment. Thereafter the assessee did not receive any hearing notice from the Commissioner (Appeals). The Commissioner (Appeals) states that he had given too many opportunities. The order does not say on what dates the case was posted for hearing more than once and how the assessee did not respond on all the dates.

In the order of the Commissioner (Appeals) against the column date of hearing it has been stated that hearings were fixed as per order sheet. The order sheet is a departmental record and the assessee has no access to the same. Since the Commissioner (Appeals) has not given details of the dates of hearings, dates of service of the said hearing notices etc it is not possible to explain under what circumstances there had been no response to the hearing notices. There is no transparency in the Commissioner's order regarding the failure of the assessee to respond to the hearing notices.

It is therefore submitted that the matter may be restored to the Commissioner (Appeals) for one more opportunity to explain the various aspect of the additions. The undersigned undertakes to appear before the Commissioner (Appeal and co-operate with the department.

(K. Meenakshisundaram) Income tax Practitioner."

It was submitted by Id.A.R that the assessee may be granted an another opportunity to represent his appeal before the Ld.CIT(A).

4. In reply, the Id.D.R vehemently supported the order of the CIT(Appeals).

5. We have considered the rival submissions. A perusal of the order of the CIT(Appeals) shows that the appeal has been disposed of by the Ld.CIT(A) as *ex parte*. Considering the written submissions filed by Id.A.R and in the interest of natural justice, the issues in this appeal are restored to the file of Ld.CIT(A) for re-adjudication after granting the assessee adequate opportunity of being heard.

6. In the result, the appeal of the assessee is partly allowed for statistical purposes

Order pronounced on 09th October, 2018, 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: 09th October, 2018.

K S Sundaram

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 |