

आयकर अपीलीय अधिकरण, ए / एस एम सी न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
'A' SMC BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER

आयकर अपील सं./ITA No.1044/Chny/2019

निर्धारण वर्ष / Assessment Year : 2013-14

M/s Samsons Rubber Industries
Pvt. Ltd.,
No.25A/1/3&4, SIDCO Industrial
Estate,
Chennai - 600 098.

v. The Income Tax Officer,
Corporate Ward 6(1),
Chennai - 600 034.

PAN : AAACS 4981 M

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : None

प्रत्यर्थी की ओर से/Respondent by : Shri Sanath Kumar Raha, JCIT

सुनवाई की तारीख/Date of Hearing : 01.07.2019

घोषणा की तारीख/Date of Pronouncement : 02.07.2019

आदेश /ORDER

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -15, Chennai, dated 20.02.2019 and pertains to assessment year 2013-14.

2. No one appeared for the assessee despite the service of notice of hearing by RPAD. The Registry has placed on record the

postal acknowledgement received from the assessee as proof for the service of notice on the assessee. Hence, I heard the Ld. Departmental Representative and proceeded to dispose the appeal on merit.

3. Shri Sanath Kumar Raha, the Ld. Departmental Representative submitted that it is a mandatory requirement of law to e-file the appeal with effect from 01.03.2016. Admittedly, the appeal was filed only on 07.12.2018, therefore, there was a delay of 965 days. Since there was no explanation forthcoming from the assessee, according to the Ld. D.R., the same was rejected.

4. Having heard the Ld. D.R., and perused the relevant material available on record, this Tribunal finds that the appeal was manually filed on 17.03.2016. It is not the case of the Revenue that any defect memo was issued or the appeal was returned. When the appeal was filed by the assessee manually, if it is not in tune with the statutory requirement, it is for the CIT(Appeals) either to issue a defect memo or to return the appeal filed manually, to the assessee. Admittedly, no such action was taken by the CIT(Appeals). The appeal was e-filed on 07.12.2018. Therefore, this Tribunal is of the considered opinion that when the assessee admittedly filed the

appeal manually on 17.03.2016 and also e-filed on 07.12.2018, the assessee's e-filing of appeal would relate back to the original date of filing appeal manually on 17.03.2016. In other words, there is no delay in filing the appeal. If e-filing of appeal on 07.12.2018 relates back to manual filing of appeal on 17.03.2016, there is no delay at all. Hence, the CIT(Appeals) ought to have disposed of the appeal on merit. In view of the above, I am unable to uphold the orders of the authorities below. Accordingly, orders of both the authorities below are set aside and the entire issue is remitted back to the file of the CIT(Appeals). The CIT(Appeals) shall consider the appeal on merit and dispose the same in accordance with law, after giving a reasonable opportunity to the assessee.

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the court on 2nd July, 2019 at Chennai.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 2nd July, 2019

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-15, Chennai
4. Principal CIT-6, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.