

आयकर अपीलीय अधिकरण, "सी" न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष
Before Shri Duvvuru RL Reddy, Judicial Member &
Shri S. Jayaraman, Accountant Member

आयकर अपील सं./I.T.A.Nos.642 & 643/Chny/2019
निर्धारण वर्ष/**Assessment Year:2003-04 & 2004-05**

M/s. Kulithalai Taluk Agri. Producers
Cooperative Marketing Society Ltd.,
2/65, Cauvery Nagar, Kulithalai,
Trichy District.
[PAN:AAAAT0283B]

The Income Tax Officer,
Ward 2(1),
Trichy.

Vs.

(अपीलार्थी /Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate, Erode
प्रत्यर्थी की ओर से/Respondent by : Shri R. Clement Ramesh Kumar, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 04.07.2019
घोषणा की तारीख /Date of Pronouncement : 19.07.2019

आदेश /O R D E R

PER DUVVURU RL REDDY, JUDICIAL MEMBER:

Both the appeals filed by the assessee are directed against the common order of the Id. Commissioner of Income Tax (Appeals) 1, Trichy dated 01.01.2019 relevant to the assessment years 2003-04 and 2004-05. For both the appeals, the assessee has not filed any specific grounds other than mentioning "Delay not condoned" under column 9 of Form 36.

2. Both the appeals filed by the assessee are delayed by 9 days, for which, the Id. Counsel for the assessee has filed a petition in support of an affidavit for condonation of the delay, to which; the Id. DR has not raised any

serious objection. Consequently, since the assessee was prevented by sufficient cause, the delay of 9 days in filing of the appeal stands condoned and the appeal is admitted for adjudication.

3. Brief facts of the case are that the assessment under section 143(3) of the Income Tax Act, 1961 ["Act" in short] were completed for both the assessment years on 30.01.2006. The appeal for both the assessment years was filed before the Id. CIT(A) with a delay of 777 days in filing appeal. After considering the condonation petition, affidavit and submissions of the assessee, the Id. CIT(A) dismissed the appeals filed by the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. Against the assessment order, the assessee preferred further appeal before the Id. CIT(A) after lapse of more than two years. The reasons for delay in filing the appeal before the Id. CIT(A), in nutshell, was that initially the assessee was advised not to file appeals by auditor on the ground that there was no point to contest in appeal. However, after the decision of the ITAT, Jodhpur Bench in the case of Rawatsar K.V. Sahakari Samiti Ltd. v. ITO reported in 102 TTJ 682, the income, which was disallowed in the assessment order was eligible for deduction and that because of assessee's situation, being located in an interior village, making its exposure to income tax intricacies was almost nil

and thus, prayed for condoning the delay of 777 days in filing the appeals. The main thrust for seeking condonation of delay that the meritorious matter should not be thrown out on the ground of limitation and that substantial justice deserves to be preferred. After considering the submissions of the assessee, the Id. CIT(A) has observed that the decision of the Jodhpur Bench of the Tribunal was rendered on 24.03.2006 and reported in [2006] 102 TTJ 682/[2006] 10 SOT 10 (URO), meaning thereby the decision so referred by the assessee was reported as early as in the year 2006 itself, whereas, the assessee chose to file the appeals for both the assessment years only in the year 2008 causing a delay of more than two years. By following various decisions including the decision in the case of Atcom Technologies Limited v. Y.A. Chunawala and Co. & Ors. in Civil Appeal Nos. 4266 & 4267/2018 dated 07.05.2018, the Id. CIT(A) rejected the condonation petition filed by the assessee and dismissed the appeals.

6. By reiterating the submissions as made before the Id. CIT(A), the Id. Counsel for the assessee prayed that the delay in filing the appeals before the Id. CIT(A) may be condoned. We have considered entire facts of the case. Admittedly, the assessment orders were passed on 30.01.2006 for both the assessment years and served on the assessee on 14.02.2006 and the due date of filing of appeals is 14.03.2006. The decision of the ITAT, Jodhpur Bench in the case of Rawatsar K.V. Sahakari Samiti Ltd. v. ITO was

rendered on 24.03.2006 and reported in [2006] 102 TTJ 682/[2006] 10 SOT 10 (URO), meaning thereby the decision so referred by the assessee was reported as early as in the year 2006 itself, whereas, the assessee chose to file the appeals for both the assessment years only in the year 2008 causing a delay of 777 days. In case, the assessee filed the appeals after the decision rendered by the ITAT Jodhpur and thereby, there was delay of 15 days to one month of one or two months delay, it may be accepted that the Id. Counsel was not aware or so. But, in this case, the assessee slept more than two years after the decision rendered and published in various journals, the delay of more than two years in filing the appeal cannot be acceptable by any court of law without reasonable cause. We find no reasonable cause, belatedly that too more than two years, in filing the appeals before the Id. CIT(A). We find no reason to interfere with the order passed by the Id. CIT(A). Thus, the ground raised by the assessee stands dismissed.

7. In the result, all the appeals filed by the assessee are dismissed.

Order pronounced on the 19th July, 2019 at Chennai.

Sd/-
(S. JAYARAMAN)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, the 19.07.2019
Vm/-

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.