

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. No.558/Chny/2019
निर्धारण वर्ष/Assessment Year: 2013-14

Smt. Annapurani Hariharan,
2A, Nineth South Cross Street,
Kapaleeswar Nagar, Neelangarai,
Chennai - 600 115.

The Income Tax Officer,
Vs. Non-Corporate Ward -15(1),
Chennai.

[PAN: AEXPA2734E]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri P.G. Sadguru Das, C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri R. Clement Ramesh Kumar, Addl.CIT
सुनवाई की तारीख/ Date of hearing : 01.07.2019
घोषणा की तारीख /Date of Pronouncement : 19.07.2019

आदेश / O R D E R

PER DUVVURU RL REDDY, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals)-15, Chennai, dated 31.12.2018 relevant to the assessment year 2013-14. Besides challenging the issue on merit, the assessee has mainly challenged the ex-parte order passed by the Id. CIT(A).

2. Brief facts of the case are that the assessee is an individual and filed her return of income for the assessment year 2013-14 on 31.03.2015

admitting income of ₹. 2,45,390/-. The return filed by the assessee was taken up for scrutiny. After considering the details filed against statutory notices, the assessment under section 143(3) of the Act was completed by assessing income of the assessee at ₹. 74,38,930/- by making various additions.

3. The assessee carried the matter in appeal before the Id. CIT(A). Since the assessee could not e-file the appeal, the Id. CIT(A) dismissed the appeal filed by the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the Id. CIT(A) has erroneously dismissed the appeal summarily without going into the merits of the facts and without appreciating the fact that the assessee has filed manual appeal within the time stipulated under the Act, besides e-filing of the appeal immediately she was notified and prayed that suitable directions may be given to the Id. CIT(A) to adjudicate the issue on merits by giving an opportunity to the assessee.

5. Per contra, the Id. DR referred to the order of the Id. CIT(A) and submitted that the assessee has failed to file the appeal electronically, which is mandated by amendment to Rule 45 of the I.T. Rules, notified by the

CBDT vide Notification No. S.O. 637(E) dated 01.03.2016, the manual appeal filed has been rightly treated by the Id. CIT(A) as non-est.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. It is an admitted fact that against the assessment order, the assessee filed a manual appeal on 21.04.2016, which is well within the time provided under the Act. Since the assessee did not comply with Rule 45 of the IT Rules, a show-cause dated 13.12.2018 was sent to the assessee to explain the cause for non-compliance with the aforesaid Rule. In compliance to the notice the assessee filed the appeal electronically on 26.12.2018. Since there was a delay in e-filing from the extended due date of e-filing i.e., 15.06.2016 and no petition to condone the delay has been filed by the assessee, the Id. CIT(A) dismissed the appeal without adjudicating the issue on merits. On similar facts and circumstances in an identical issue, the Mumbai Benches of this Tribunal in the case of All India Federation of Tax Practitioners v. ITO reported in [2018] 166 DTR 276 (Mumbai (Trib) as also the decision of the Delhi Benches of the Tribunal in the case of Shri Gurinder Singh Dhillon v. ITO in ITA No. 6595/Del/2016 dated 19.04.2017 had held that the delay was liable to be condoned. In this case, we find that the delay was on account of the venial breach and as the assessee had filed the manual appeal within the time. Thus, respectfully following the principles laid down by the Hon'ble

Supreme Court in the case of State of Punjab v. Shyamalal Murari & Others reported in AIR 1976 (SC) 1177, the delay in e-filing of the appeal is condoned and the issues in this appeal are restored to the file of the Id. CIT(A) for adjudication on merits in accordance with law by allowing an opportunity of being heard to the assessee.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

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

Sd/-
(S. JAYARAMAN)
ACCOUNTANT MEMBER

Sd/-
(DUVVURU RL REDDY)
JUDICIAL MEMBER

Chennai, Dated, 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.