

**आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL , 'D' BENCH, CHENNAI**  
**श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष**  
**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND**  
**SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.2654/CHNY/2018

(निर्धारण वर्ष / Assessment Year: 2014-15)

Shri C Dhanasekaran, Old No.118, New No.225, Bakvathchalam Colony, 2 <sup>nd</sup> Street, Chennai – 600 039.	Vs	The Income Tax Officer, Non Corporate Ward 4(3), Chennai – 600 034.
PAN: AQXPD1769N		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri Saroj Kumar Parida, Advocate
प्रत्यर्थी की ओर से/Respondent by	:	Dr.S. Pandian, JCIT

सुनवाई की तारीख/Date of hearing	:	24.07.2019
घोषणा की तारीख /Date of Pronouncement	:	30.07.2019

**आदेश / ORDER**

**PER S. JAYARAMAN, ACCOUNTANT MEMBER:**

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-5, Chennai in ITA No.179/CIT(A)-5/2016-17 dated 29.06.2018, against the penalty order passed U/s.271(1)(c) of the Income Tax Act,1961, for the assessment year 2014-15.

2. There is a delay of 17 days in filing the appeal. The assessee filed an affidavit submitting that he was out of station to attend his

ailing mother at Paramagudi and hence there was a delay of 17 days in filing the appeal which is neither willful nor wanton, but mainly due to the pressing demands on attending his ailing mother. We heard the rival submissions and on merit condone the delay.

3. Shri C. Dhanasekaran, the assessee, an individual did not respond to the notices issued by the Assessing Officer, therefore the Assessing Officer passed an order U/s.144 making an addition of Rs.29,61,000/- towards unexplained investments U/s.69. Thereafter, he initiated penalty proceedings U/s.271(1)(c). Since the assessee did not represent the case, he levied penalty U/s.271(1)(c) also. Meanwhile, the assessee filed an application U/s. 264 before the PCIT-9, Chennai. The PCIT refrained from entertaining the assessee's petition U/s.264 and observed that the assessee is free to file an appeal before the appellate commissioner of Income Tax, if he wishes so, as per the procedure laid down in the statutes. The appeal filed against the quantum issues are stated to be pending before the CIT(A). The assessee filed an appeal against the penalty order before the CIT(A). On dismissal, the assessee filed this appeal before the Tribunal.

4. The Ld.AR pleaded that since the case was not properly represented, the impugned addition was made by the Assessing Officer. Now, the assessee has collected proper materials to prove that the addition made U/s.144 is not warranted. Since the quantum appeal is pending before the Ld.CIT(A), it is pleaded that this appeal may also be remitted back to the Ld.CIT(A) to decide this case along with the quantum appeal. We heard the Ld.DR.

5. We heard the rival submissions. Since the quantum appeal is pending before the Ld.CIT(A), we deem it fit to remit this issue back to the Ld.CIT(A) to decide both the quantum as well as penalty appeals together.

6. In the result the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the court on the 30<sup>th</sup> July, 2019 at Chennai.

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated 30<sup>th</sup> July, 2019

Sd/-

( एस जयरामन )

(S. Jayaraman)

लेखा सदस्य /Accountant Member

**RSR**

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