

आयकर आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' 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.119/CHNY/2018

(निर्धारण वर्ष / Assessment Year: 2012-13)

**M/s. Stylog Infrastructure Pvt.
Ltd.,**
No.47B, Sedarapet Main Road,
Rajiv Gandhi Nagar, Sedarapet,
Pondicherry – 605 111.
PAN: AANCS 4080J

(अपीलार्थी/Appellant)

Vs The Deputy Commissioner of
Income Tax,
Puducherry Circle,
Puducherry.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri D. Anand, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri A. Sundararajan, JCIT

सुनवाई की तारीख/Date of hearing : 03.10.2019

घोषणा की तारीख /Date of Pronouncement : 16.10.2019

आदेश / O R D E R

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the order of the learned
Commissioner of Income Tax (Appeals), Puducherry in ITA
No.52/CIT(A)-PDY/2015-16 dated 19.12.2016 for the assessment year
2012-13.

2. M/s. Stylog Infrastructure Pvt. Ltd., the assessee, is in the business of supply of building materials. While making the assessment for the assessment year 2012-13, the AO required the assessee to file confirmation from sundry creditors. Since, the assessee has not filed any confirmation from M/s. Siddique Trading Company Pvt. Ltd., the AO added the balance outstanding in its name at Rs.13,73,30,431/- and completed the assessment. Aggrieved against that order, the assessee filed appeal before the CIT(A). The Id.CIT(A) dismissed the appeal. Aggrieved against that order, the assessee filed this appeal.

3. The assessee sought to condone the delay in filing the appeal by 103 days. It is pleaded that the appeal order was received by the erstwhile accountant who resigned and the new accountant came to possession of appeal papers during the first week of January, 2018. Thereafter, it took all efforts to ensure filing of this appeal. Therefore, the delay of 103 days in filing the appeal is neither willful or wanton and hence pleaded to condone the delay. We heard the rival submissions and condone the delay in filing the appeal.

4. The Id.AR submitted that the Id.CIT(A) ought to have seen that the AO erred in law, treating the sum of Rs.13,73,30,431/- the balance

outstanding in the case of M/s. Siddique Trading Company Pvt. Ltd., as income of the assessee. The Id.CIT(A) ought to have seen that the assessee has raised specific ground with respect to the addition. However, the Id.CIT(A) decided the appeal ex-parte without giving specific finding. Therefore, he pleaded that an opportunity may be given to the assessee so that the appeal is decided on merits. Per contra, the Id.DR submitted that the assessee failed to furnish confirmation letter before the AO and before the Id.CIT(A) also, it did not comply with the notices issued by him. Therefore, the Id.CIT(A) dismissed the appeal for non-prosecution.

5. We heard the rival submissions. We find that the Id.CIT(A) dismissed the appeal for non-prosecution without deciding the appeal on merit. In the circumstances, this appeal may have to be sent to the Id.CIT(A) for deciding the issue on merit. However, considering the fact that the issue involved is confirmation of creditors, we deem it fit to remit this issue back to the AO for a fresh examination. The assessee shall place all the material in support of its contention before the AO **within 90 days from the receipt of this order** and comply with the requirements of the AO in accordance with law. The AO is free to conduct appropriate enquiry as deemed fit, however, he shall furnish

due opportunity to the assessee on the materials etc., to be used against the assessee and on due consideration of the assessee's clarification / explanation shall pass the order in accordance with law.

6. In the result, the appeal of the assessee is treated as partly allowed for statistical purpose.

Order pronounced in the court on 16th October, 2019 at Chennai.

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated 16th October, 2019

Sd/-

(एस जयरामन)

(S. Jayaraman)

लेखा सदस्य /Accountant Member

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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