

**आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई**  
IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH : CHENNAI  
श्री इंटूरी रामा राव, लेखा सदस्य एवं  
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष

[BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER]

**आयकर अपील सं./I.T.A. Nos.2443, 2444, 2445 & 2446 CHNY/2019**  
**निर्धारण वर्ष /Assessment years** : 2013-14 (Q2), 2013-14 (Q3),  
2014-15 (Q4) and 2014-15 (Q4).

The Catholic Syrian Bank Ltd,  
(Avadi Branch)  
No.65, Nehru Bazar, Old Market,  
Avadi, Chennai 600 054.

**Vs.** The Assistant Commissioner  
of Income Tax,  
CPC-TDS,  
Ghaziabad.

**[PAN AABCT 0024D]**

**आयकर अपील सं./I.T.A. Nos.2447, 2448 & 2449/CHNY/2019**  
**निर्धारण वर्ष /Assessment years:-** 2014-15 (Q2), 2014-15 (Q2) and  
2013-14 (Q4).

The Catholic Syrian Bank Ltd,  
(Chennai 2- Mount Road Branch)  
No.826, Tarapore Towers,  
Ground Floor, Mount Road,  
Chennai 600 002.

**Vs.** The Assistant Commissioner  
of Income Tax,  
CPC-TDS,  
Ghaziabad.

**[PAN AABCT 0024D]**

**आयकर अपील सं./I.T.A. Nos.2450 & 2451/CHNY/2019**  
**निर्धारण वर्ष /Assessment years:-** 2013-14 (Q3) and 2013-14 (Q4)

The Catholic Syrian Bank Ltd,  
(Chennai Service Bank )  
No.826, Tarapore Towers,  
Ground Floor, Mount Road,  
Chennai 600 002.

**Vs.** The Assistant Commissioner  
of Income Tax,  
CPC-TDS,  
Ghaziabad.

**[PAN AABCT 0024D]**

आयकर अपील सं./I.T.A. No.2452/CHNY/2019  
निर्धारण वर्ष /Assessment years:- 2013-14 (Q2),

The Catholic Syrian Bank Ltd,  
(Guindy Branch)  
28, Lawyer Jaganathan Street,  
Alandur, Guindy  
Chennai 600 032.

**Vs.** The Assistant Commissioner  
of Income Tax,  
CPC-TDS,  
Ghaziabad.

**[PAN AABCT 0024D]**

आयकर अपील सं./I.T.A. Nos.2453,2454, 2455, 2456, 2457, 2458, 2459,  
2460, 2461, 2462, 2463, 2464/CHNY/2019.

निर्धारण वर्ष /Assessment years:- 2014-15 (Q1), 2014-15 (Q1), 2013-14  
(Q2), 2014-15 (Q2), 2013-14 (Q2), 2013-14 (Q3), 2014-15 (Q4), 2013-14  
(Q3), 2014-15 (Q3), 2013-14 (Q4), 2013-14 (Q3) and 2014-15 (Q4).

The Catholic Syrian Bank Ltd,  
(Peravallur Branch)  
No.6, Paper Mills Road,  
Perambur,  
Chennai 600 082.

**Vs.** The Assistant Commissioner  
of Income Tax,  
CPC-TDS,  
Ghaziabad.

**[PAN AABCT 0024D]**

आयकर अपील सं./I.T.A. Nos.2465, 2466 & 2467/CHNY/2019  
निर्धारण वर्ष /Assessment years:- 2014-15 (Q2), 2014-15(Q2)  
and 2014-15 (Q2)

The Catholic Syrian Bank Ltd,  
(Royapettah Branch)  
No.18, V.S.S. Building,  
1<sup>st</sup> floor, Royapettah High Road,  
Chennai 600 014.

**Vs.** The Assistant Commissioner  
of Income Tax,  
CPC-TDS,  
Ghaziabad.

**[PAN AABCT 0024D]**

आयकर अपील सं./I.T.A. Nos.2468, 2469, 2470, 2471 &  
2472/CHNY/2019

निर्धारण वर्ष /Assessment years:- 2014-15 (Q1), 2014-15 (Q1),  
2015-16(Q3), 2015-16(Q3) and 2014-15 (Q3)

The Catholic Syrian Bank Ltd,  
(Thirupattur Branch)  
No.38A, Sunder Lodge Building  
(Ground floor)  
Krishnagiri Road,  
Tiruppattur 635 601.

**[PAN AABCT 0024D]**

**Vs.** The Assistant Commissioner  
of Income Tax,  
CPC-TDS,  
Ghaziabad.

आयकर अपील सं./I.T.A. Nos.2473 CHNY/2019

निर्धारण वर्ष /Assessment years:- 2013-14(Q2)

The Catholic Syrian Bank Ltd,  
(Tiruvallur Branch)  
No.157, TNHB,  
Kakkallur Bye Pass Road,  
Tiruvallur 602 001.

**[PAN AABCT 0024D]**

**Vs.** The Assistant Commissioner  
of Income Tax,  
CPC-TDS,  
Ghaziabad.

आयकर अपील सं./I.T.A. Nos.2474 CHNY/2019

निर्धारण वर्ष /Assessment years:- 2014-15(Q1)

The Catholic Syrian Bank Ltd,  
(Walajapet)  
Plot No. 12C Part, G.M.K. Plaza,  
T.N.H.B,  
Walajapet 632 513. Vellore

**[PAN AABCT 0024D]**

**(अपीलार्थी/Appellant)**

**Vs.** The Assistant Commissioner  
of Income Tax,  
CPC-TDS,  
Ghaziabad.

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से /Respondent by

: Shri. C. Naresh, C.A.  
: Shri. J. Pavitraran Kumar, JCIT.

सुनवाई की तारीख/Date of Hearing : 06-11-2019  
घोषणा की तारीख /Date of Pronouncement : 07-11-2019

### **आदेश / ORDER**

#### **PER BENCH**

These are appeals filed by the assessee directed against common orders of the Commissioner of Income Tax (Appeals)-17, Chennai ('CIT(A)' for short) dated 27.06.2019 for different Assessment Years against levy of late fees u/s.234E of the Income Tax Act, 1961 (in short 'the Act').

2. Since, the identical facts and issues are involved in these appeals, we proceed to dispose the same vide this common order.

3. For the sake of convenience and clarity the facts relevant to the appeal in ITA No.2443/Chny/2019 for assessment year 2013-14 (Q2) are stated herein.

4. The Assessee raised the following grounds of appeal:

*'1. On the facts and in the circumstances of the case and in law, the learned CIT (A) erred in not condoning the delay in filing the appeal which was caused by the reason of the taxation matters being handled by head office and non-communication of defaults by the branches to the head office in time. Branch was not aware about filing of appeals against intimation received at branches as they are not experts in taxation matters. Also the constitutional validity of the section was under question before various high courts. The CIT(A) failed to appreciate that there was no wilful or deliberate reasons for the appellant in not filing the appeal and hence the Id. CIT(A) ought to have condoned the delay and decided the appeal on merits.*

*2. There is no delay in filing appeal before the ITAT. This fact shows that there is prompt action taken and there is due diligence and no negligence.*

*3. The CIT (A) ought to have allowed the claim of appellant that no Late filing fees u/s 234E could be levied for the said assessment year through intimation u/s 200A, prior to its amendment vide Finance Act 2015 which was made effective only from 01.06.2015, as held by various judicial decisions.*

*4. The appellant submits that there was no loss to revenue on account of the delayed filing of the return since the tax that was deducted had been remitted within the due date as prescribed under the Act and accordingly, the ground of appellant allowed".*

5. The brief facts of the case are as under:

The appeal was filed before the Id. CIT(A) with delay of 1722 days. The Id. CIT(A) had dismissed the appeal without condoning the delay, hence the assessee is in appeal before us in the present appeal.

6. Admittedly, there is delay of 1722 days in filing the appeal before CIT(A). A petition for condonation of delay before Id. CIT(A) was filed stating that the delay had occurred because of ignorance on the part of the Branch Manager of the assessee bank. It is only when the Income Tax authorities was trying to recover the money from the branch, the Branch Manager had contacted the Head Office who in turn directed the Branch Manager to file appeal against levy of penalty. It is submitted that there is no deliberate delay on the part of the assessee, delay had occurred because of ignorance of the Branch Manager, placing reliance on the decision of Hon'ble Supreme Court in the case of *Collector, Land Acquisition vs.*

*Mst. Katiji and Others, (1987) 167 ITR 471*, the delay be condoned. However, the Id. CIT(A) had not condoned the delay and dismissed the appeal in limine.

7. Being aggrieved, the appellant is in appeal before us in the present appeal.

8. We heard the rival submissions and perused the material on record. Admittedly, late fees u/s.234E of the Act was levied even in respect of period before the insertion of provisions of Section 234E of the Act. It is settled position of law that no provision of the Act has retrospective effect unless or otherwise expressly made retrospectively applicable. Thus, it appears that assessee has meritorious case. The Id. CIT (A) should have considered the petition for condonation of delay keeping in view the judgment of Hon'ble Supreme Court in the case of *Collector, Land Acquisition vs. Mst. Katiji and Others (supra)* wherein the following principles were laid down relating to condonation of delay.

*"1. Ordinarily, a litigant does not stand to benefit by lodging an appeal late.*

*2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties.*

*3. " Every day's delay must be explained " does not mean that a pedantic approach should be made. Why not every hour's delay,*

*every second's delay? The doctrine must be applied in a rational, common sense and pragmatic manner.*

*4. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred, for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*

*5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.*

*6. It must be grasped that the judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so".*

Further, the Courts have always held that the delay is a matter of which could be condoned in the interest of justice. The Jurisdictional High Court in the case of *Sreenivas Charitable Trust vs. DCIT (2006) 280 ITR 357* had depreciated meticulous approach in construing the meaning of sufficient cause for the condonation of delay. In the light of the above facts and law, we are of the considered opinion that the Id. CIT(A) should have condoned the delay. Therefore we direct the Id. CIT(A) to admit the appeal and decide the issue in appeal on merits in accordance with law and we restore the matter back to the file of the Id. CIT(A) for adjudication.

9. In the result, the appeal filed by the assessee in ITA No.2443/CHNY/2019 for assessment year 2013-14 (Q2) is partly allowed for statistical purpose.

**I.T.A. Nos. 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461,**

**2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473 and 2474/CHNY/2019, for assessment years 2013-14 (Q3), 2014-15 (Q4), 2014-15 (Q4), 2014-15 (Q2), 2014-15 (Q2), 2013-14 (Q4), 2013-14 (Q3), 2013-14 (Q4), 2013-14 (Q2), 2014-15 (Q1), 2014-15 (Q1), 2013-14 (Q2), 2014-15 (Q2), 2013-14 (Q2), 2013-14 (Q3), 2014-15 (Q4), 2013-14 (Q3), 2014-15 (Q3), 2013-14 (Q4), 2013-14 (Q3), 2014-15 (Q4), 2014-15 (Q2), 2014-15 (Q2), 2014-15 (Q2), 2014-15 (Q1), 2014-15 (Q1), 2015-16(Q3), 2015-16(Q3), 2014-15 (Q3), 2013-14 (Q2) and 2014-15 (Q1).**

**10.** Since, the facts in the present appeals are identical to the facts in ITA No.2443/Chny/2019, for assessment year 2013-14 (Q2) for the reasons mentioned therein, we partly allow the appeals for statistical purpose on the above lines indicated in appeal ITA No.2443/Chny/2019 supra. Hence, the above captioned appeals filed by the assessee are partly allowed for statistical purposes.

**11.** In the result, the appeals filed by the assessee in ITA Nos.2443 to 2474/CHNY/2019 are partly allowed for statistical purpose.

Order pronounced on 07<sup>th</sup> day of November, 2019, at Chennai.

Sd/-

(धुव्वुरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

**न्यायिक सदस्य/JUDICIAL MEMBER**

चेन्नई/Chennai

दिनांक/Dated: 07<sup>th</sup> November, 2019.

**KV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

3. आयकर आयुक्त (अपील)/CIT(A)

5. विभागीय प्रतिनिधि/DR

2. प्रत्यर्थी/Respondent

4. आयकर आयुक्त/CIT

6. गार्ड फाईल/GF

