

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री इंटूरी रामा राव, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2309/Chny/2019

निर्धारण वर्ष /Assessment Year : 2013-14

M/s Deepam Construction,
No.4 & 5, 9th Cross Street,
Custom Colony, Thoraipakkam,
Chennai - 600 097.

v. The Income Tax Officer,
Non Corporate Ward - 15(1),
Chennai - 600 034.

PAN : AAIFD 3828 M

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Sh. N. Devanathan, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri A. Sundararajan, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 25.10.2019

घोषणा की तारीख/Date of Pronouncement : 04.12.2019

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) -15, Chennai, dated 26.06.2019 and pertains to assessment year 2013-14.

2. The application filed by the assessee for early hearing was posted on 25th October, 2019. When the appeal for early hearing was taken up for hearing, Sh. N. Devanathan, the Ld.counsel for the

assessee and Shri A. Sundararajan, the Ld. Departmental Representative submitted that the only issue arises for consideration on merit in the appeal is with regard to delay in e-filing of appeal. It was also clarified that the assessee filed appeal manually on 07.04.2016. However, as per the mandate of Income-tax Act, the appeal was filed electronically on 07.02.2019. Therefore, the CIT(Appeals) has treated the delay in filing the appeal electronically and dismissed the appeal.

3. Referring to the order of this Tribunal in Shri G.P. Saravanan v. ITO in I.T.A. No.279/Chny/2019 dated 10.05.2019, the Ld.counsel for the assessee submitted that in a similar circumstances, this Tribunal found that e-filing of appeal subsequently relates back to manual filing of appeal, therefore, there was no delay at all.

4. In view of the above factual situation, by consent of the both the parties, the appeal itself was taken up for hearing. As rightly submitted by the Ld.counsel for the assessee, this Tribunal in the case of Shri G.P. Saravanan (supra), has passed an order which reads as follows:-

"4. Having heard the Ld.counsel for the assessee and the Ld. D.R., this Tribunal finds that the appeal was manually

filed on 02.05.2016. It is not the case of the Revenue that any defect memo was issued or the appeal was returned. When the appeal was filed by the assessee manually, if it is not in tune with the statutory requirement, it is for the CIT(Appeals) either to issue a defect memo or to return the appeal filed manually, to the assessee. Admittedly, no such action was taken by the CIT(Appeals). The appeal was e-filed on 22.12.2018. Therefore, this Tribunal is of the considered opinion that when the assessee admittedly filed the appeal manually on 02.05.2016 and also e-filed on 22.12.2018, the assessee's e-filing of appeal would relate back to the original date of filing appeal manually on 02.05.2016. In other words, there is no delay in filing the appeal. If e-filing of appeal on 22.12.2018 relates back to manual filing of appeal on 02.05.2016, there is no delay at all. Hence, the CIT(Appeals) ought to have disposed of the appeal on merit. In view of the above, we are unable to uphold the orders of the authorities below. Accordingly, orders of both the authorities below are set aside and the entire issue is remitted back to the file of the CIT(Appeals). The CIT(Appeals) shall consider the appeal on merit and dispose the same in accordance with law, after giving a reasonable opportunity to the assessee."

5. In view of the above order of this Tribunal, when the assessee admittedly filed appeal manually on 07.04.2016 and also filed electronically on 07.02.2019 and admittedly the CIT(Appeals) has not issued any defect memo, the appeal filed electronically on 07.02.2019 would relate back to the date of originally filed the appeal manually on 07.04.2016. Therefore, there was no delay at all. Hence, the order of the CIT(Appeals) is set aside and the entire issue raised by the assessee is remitted back to the file of the

CIT(Appeals). The CIT(Appeals) shall consider the appeal on merit and dispose the same in accordance with law, after giving a reasonable opportunity to the assessee.

6. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the court on 4th December, 2019 at Chennai.

sd/-

(इंटूरी रामा राव)

(Inturi Rama Rao)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 4th December, 2019.

Kri.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-15, Chennai
4. Principal CIT- 6, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.