

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'B' BENCH: CHENNAI**

श्री जॉर्ज माथन, न्यायिक सदस्य एवं  
श्री इंटूरी रामा राव, लेखा सदस्य एवं

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND**  
**SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.577/Chny/2018  
निर्धारण वर्ष /Assessment Year: 2013 -14

M/s. Balaji On Board Couriers,  
Old No.5, New No.9,  
Mahalingam Chetty Street,  
Mahalingapuram,  
Chennai – 600 034.

**[PAN: AAGFB 0131M]**

**(अपीलार्थी/Appellant)**

The Income Tax Officer  
Non-Corporate Ward-3(1)  
**Vs.** Chennai – 600 034

**(प्रत्यर्थी/Respondent)**

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

: Mr. R. Sivaraman, Advocate  
: Mr. A. Sundararajan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 08.01.2020

घोषणा की तारीख /Date of Pronouncement

: 08.01.2020

**आदेश / ORDER**

**PER GEORGE MATHAN, JUDICIAL MEMBER:**

This is an appeal filed by the Assessee against the order of the learned Commissioner of Income Tax (Appeals)-4, Chennai in ITA No.54/2016-17/A.Y.2013-14/CIT(A)-4, dated 20.09.2017 for the Assessment Year 2013-14.

2. Mr. R. Sivaraman, Advocate, represented on behalf of the Assessee and Mr. A. Sundararajan, Additional CIT represented on behalf of the Revenue.

3. It was a submission that the assessee is in the business of running a courier business. It was a submission that the assessee was unable to represent its case properly before the Assessing Officer. It was also a submission that even before the learned CIT(A), the assessee's representation had latches and consequently the learned CIT(A) had dismissed the appeal of the assessee after granting number of opportunities to represent its case. It was a submission that the assessee's Counsels were pre-occupied and had filed a writ petition on behalf of the assessee before the Hon'ble Jurisdictional High Court in respect of the issue of applicability of Section 40(a)(ia), in respect of the non-deduction of the TDS on the freight payment. It was a submission that the failure on the part of the assessee may be condoned and the assessee may be granted another opportunity to represent his claims before the Assessing Officer.

4. In reply, the learned Departmental Representative vehemently opposed the prayer of the assessee. It was a submission that before the Assessing Officer, eight opportunity had been given and before the learned CIT(A), six opportunities had been given and there was

absolutely no co-operation from the assessee. It was a submission that if the assessee is to be given another opportunity, punitive costs may be levied upon the assessee to a minimum of Rs.10,000/-.

5. We have considered the rival submissions and perused the materials available on record.

6. A perusal of the assessment order, as also the order of the learned CIT(A), clearly shows that the assessee has not used the substantial opportunities provided by both the Authorities below. In any case, considering the fact that the learned Authorized Representative on behalf of the assessee has given an explanation and also has admitted to the failure, and after taking into consideration the submissions of the learned Departmental Representative, in the interest of natural justice, we are of the view that the issues in this appeal are liable to be restored to the file of the Assessing Officer for re-adjudication after granting the assessee adequate opportunity to substantiate its claims before the Assessing Officer. This is ,however, subject to the condition that the assessee shall pay the cost of Rs.10,000/- to the Prime Minister Disaster Relief Fund within three months from the date of this order, and produce such receipt before the Assessing Officer. If the above said condition is not complied, then the order as passed by the learned CIT(A) shall stand confirmed.

7. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 8<sup>th</sup> January, 2020 in Chennai.

Sd/-  
(इंटूरी रामा राव)  
**(INTURI RAMA RAO)**  
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-  
(जॉर्ज माथन)  
**(GEORGE MATHAN)**  
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,  
दिनांक/Dated: 8<sup>th</sup> January, 2020

IA, Sr. PS

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