

आयकर अपीलीय अधिकरण , ' ए ' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, CHENNAI

श्री धुव्वुरु आर. एल रेड्डी, न्यायिक सदस्य एवं, श्री एस जयरामनलेखा सदस्य समक्

BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. Nos. 2969 to 2987/Chny/2019

निर्धारण वर्ष/Assessment Years : 2013-14 to 2015-16

M/s. Thirumurugan Plastics P. Ltd.,
No. 188, 189,
SIDCO Industrial Estate,
Thriumazhisai – 600 124.

The Assistant Commissioner of
Income Tax,
CPC,
Ghaziabad.

[PAN: AAAC 9058L]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. AR V Sreenivasan, JCIT

सुनवाईकीतारीख/Date of Hearing

: 17.12.2019

घोषणाकीतारीख/Date of Pronouncement

: 27.12.2019

आदेश/ ORDER

PER BENCH:

The assessee filed the above 19 appeals against the consolidated order passed by the Commissioner of Income Tax (Appeals)-17, Chennai in ITA Nos. 498 to 516/18-19 dated 25.09.2019 for the assessment years 2013-14, 2014-15 & 2015-16, respectively.

2. M/s. ThiruMurugan Plastics Pvt. Ltd., the assessee, filed 19 appeals on 18/19.03.2019, belatedly, varying from 807 days delay to 1567 days of delay in filing the appeals, against the orders passed by the CPC, Bangalore U/s. 200A for various quarters in the assessment years 2013-14, 2014-15 & 2015-16 on various dates in August, 2016, December, 2014 & December, 2016. The MD of the assessee filed an affidavit for each of the appeal pleading, inter-alia, that the impugned orders were received electronically and the impact of the said order was not communicated from the accounts department for appropriate action within the limitation period which resulted in the delay in filing these appeals, the assessee was not conversant as well as there were problems in the family as well as business side. When the recovery notice dated 04.03.2019 was received manually, the issue was brought to his notice by the accounts department and the mistake of not challenging the impugned orders was addressed immediately by filing the appeals. Therefore, he pleaded that the delay in filing each of these appeals be condoned and decide them on the merits and render justice. However, the Id.CIT(A) dismissed all the appeals, holding that the assessee did not bring any material in support of its reasons. Aggrieved against the orders of the Id.CIT(A), the assessee filed these 19 appeals.

3. The Id.AR submitted that the Id.CIT(A) dismissed the impugned appeals without giving proper opportunity to the assessee and without

assigning proper reasons and justification, on technical ground, which is wholly unjustified and untenable. Inviting our attention to the reason cited by the assessee, the Id.AR submitted that the assessee, inter-alia, explained that how it was unaware of the change from the conventional system of service to e-system of service of the impugned orders and when the recovery notice dated 04.03.2019 was manually received, it came to know the issues and immediately assessee took steps in filing these appeals and therefore sought condonation of delay in filing these appeals and prayed the Id.CIT(A) to decide them on merit and render justice. Though the impugned orders were passed and electronically served from 2014 onwards, the Revenue has not brought anything on record that it took steps to collect any of the impugned demand before 04.03.2019 and to say that the assessee was aware of the impugned orders / demands. The Id.AR relying on the Hon'ble Apex Court decision in the case of Senior Bhosale Estate (HUF) vs. ACIT in Civil Appeal Nos.6671 – 6676 of 2010 with 6677-6690 of 2010 dated 07.11.2019, and ITAT decisions in the case of M/s. Mallur Siddeswara Mills Pvt. Ltd., vs DCIT in ITA Nos. 2889, 2890 & 2891/Chny/2018 dated 03.04.2019 and M/s. Bharathi Rajaa Hospital & research Centre Pvt. Ltd., vs ACIT in ITA Nos. 2540 to 2576/Chny/2019 dated 05.12.2019, prayed that the delay in filing each of the above appeals be condoned and they may be directed to be decided on merits and due justice be rendered to the assessee.

4. Per contra, the Id. DR supported the orders of the Id.CIT(A) and relied on the decision of the Hon'ble Bombay High Court in the case of M/s. Alfa Properties & Investments P. Ltd., vs. Deputy Commissioner of Income Tax 9(1), in ITA (L) No.681 of 2018 dated 13.07.2018. The Id. DR invited our attention to para 10 of the notification No.3/2013 (F.No.142/39/2012 – SO[TPL]) dt. 15.01.2013 issued by CBDT on centralized processing of statements of TDS, 2013, which is extracted as under:-

Service of notice or communication

10. (1) The service of a notice or order or intimation or any other communication by the Cell may be made by delivering or transmitting a copy thereof to the deductor,-

(a) by electronic mail; or

(b) by placing such copy in the registered electronic account of the deductor on the portal of the Cell; or

(c) by any mode mentioned in sub-section (1) of section 282 of the Act.

(2) The date of posting of any communication under sub-paragraph (1) in the electronic mail or electronic account of the deductor in the portal of the Cell shall be deemed to be the date of service of such communication.

(3) The intimation, orders and notices shall be computer generated and need not carry physical signature of the person issuing it.

Relying on the above, the Id. DR submitted that the date on which a copy of the impugned order(s) was/ were transmitted to the deductor (the assessee) , it shall be deemed to be the date of service of such communication and accordingly, the Id DR supported the orders of the Id.CIT(A).

5. We heard the rival submissions and gone through them carefully. In these appeals, the MD of the assessee pleaded that the impugned electronic communications were not brought to the notice of the assessee, and he himself was not conversant as well as there were problems in the family as well as in the business side at the said point of time. When the recovery notice dated 04.03.2019 was received, manually, the issues were brought to his notice and he immediately took steps to file the above appeals, which caused the delay in filing each of these appeals, which is not deliberate but bonafide and beyond his control and therefore, he sought the condonation of delay in respect of each of these appeals. It was also pleaded that though the impugned orders were passed from December 2014 to December 2016, till the recovery notice served, manually on 04.03.2019, the Revenue had not sent any other communication in respect of any of the demand raised in the impugned orders. Therefore, it is pleaded that the reason canvassed by the assessee towards the delay in filing these appeals have sufficient and reasonable cause and hence, it was prayed to condone the delay in filing each of these appeals. We find that the reason canvassed by the assessee towards the delay in filing the impugned appeals appears reasonable and sufficient, in the light of the decisions relied on by the assessee, *supra*, and hence, we condone the delay in filing each of these appeals and remit these appeals back to the Id.

CIT(A) for deciding each of them on merits after affording effective opportunity to the assessee.

6. Further, though, the Revenue claimed to have served the impugned orders electronically, the assessee pleads that they were not brought to its notice and the Revenue has not sent any further communication till the date of recovery notice served on 04.03.2019 manually. Therefore, the assessee was unaware of such orders. When there is a change from one system, say the manual system to the other system, say the electronic system, apart from relying the rules and regulations, the Revenue as an administrator of the Act must also guide the assessees, in enabling them to comply with the systemic changes in a reasonable manner. Atleast in those cases, like this case, where the demand made on the assessee is pending for long time and the assessee has not responded, the Revenue should also have used other mode of communication, mentioned in sub-section (1) to section 282 of the Act. In this case, the Revenue has not brought to our notice any such communication with the assessee. Considering the totality of the facts and circumstances, the reasons canvassed by the assessee towards the delay in filing the impugned appeals appears reasonable and sufficient on this count also and hence, we condone the delay in filing each of these appeals and remit these appeals back to the Id.CIT(A) for deciding each of them on merits after affording effective opportunity to the assessee.

7. In the result, all the above appeals of the assessee are partly allowed for statistical purposes.

Order pronounced on Friday, 27th December, 2019 at Chennai.

Sd/-
(धुव्वुरुआर.एलरेड्डी)
(DUVVURU RL REDDY)
न्यायिकसदस्य/JUDICIAL MEMBER

Sd/-
(एस जयरामन)
(S. JAYARAMAN)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 27th December, 2019

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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|------------------------|--------------------------|-----------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकरआयुक्त) अपील(/CIT(A) |
| 4. आयकरआयुक्त/CIT | 5. विभागीयप्रतिनिधि/DR | 6. गार्डफाईल/GF |