

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

श्री महावीर सिंह, उपाध्यक्ष
एवं श्री एस जयरामन, लेखा सदस्य

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No.3402/Chny/2019

निर्धारण वर्ष/Assessment Year : 2007-08

M/s.EL Forge Limited,
No.21C,ARK Colony, Alwarpet,
Chennai 600 018.

(अपीलार्थी/Appellant)

[PAN AAACE 1706 C]

The Income Tax Officer,
Corporate Ward-2(3),
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Mr.S.Sridhar,Advocate
प्रत्यर्थी की ओर से/Respondent by : Mr.J.Pavithnan Kumar,JCIT ,D.R
सुनवाईकीतारीख/Date of Hearing : 12.02.2020
घोषणाकीतारीख/Date of Pronouncement : .02.2020

आदेश/ ORDER

PER S. JAYARAMAN, ACCOUNTANT MEMBER :

The assessee filed this appeal against the order of the
Commissioner of Income Tax (Appeals)-6, Chennai in ITA
No.142/CIT (A)-6/10-11/AY2007-08, dated 01.11.2019 for the
assessment year 2007-08.

2. The assessee, M/s.EL Forge Limited, is a Company engaged in the business of manufacturing of rough steel forgins and filed its return of income for the impugned assessment year on 31.10.2007. The said return was initially processed u/s.143(1) of the Act and the Assessing Officer, after considering the petition u/s.154 of the Act, passed the order of rectification rejecting the claim of deduction u/s.54G of the Act on the ground that since there is no claim in the Return for deduction u/s.54G, rectification of the intimation for granting the said deduction u/s.54G does not arise.

3. It was submitted by Ld. A.R. that the assessee filed an appeal against the order passed by the A.O. under Section 154 of the Act dated 01.10.2009. The Ld. A.R. further submitted that the learned CIT(A), without considering the written submissions with the enclosures of 105 pages filed before him and without giving adequate opportunity to the assessee, and without notifying that there was a delay of 462 days in filing the appeal etc., dismissed the appeal *exparte* and also dismissed the appeal on technical ground as the assessee has not attached the order under dispute along with the demand notice and appeal fees paid.

4. Per contra, the Ld. D.R invited our attention to para-3 of the CIT(A)'s order and submitted that, though 18 opportunities were given, the assessee has not complied with the requirements of learned CIT(A) and hence, he supported the order of the learned CIT(A). *Towards which, Ld. A.R* submitted that during the proceedings before the present Id.CIT(A) on 19.03.2019, the authorized representative of the assessee submitted the details before the learned CIT(A) and the case was re-fixed for hearing on 29.08.2019. Thereafter, the learned CIT(A) posted the case for hearing on 30.10.2019. The Id. A.R. submitted that the learned CIT(A) passed the order on 01.11.2019 without giving any findings on the merits of the issue relating to the appeal. Therefore, the Ld. A.R. pleaded before us that the assessee was not given reasonable opportunity of being heard while disposing the appeal.

5. We have considered the rival submissions and perused the material available on record. We find that the learned CIT(A) dismissed the appeal without giving effective opportunity to the assessee. In the facts and circumstances of the case, we set aside the order fo the learned CIT(A) for a fresh examination. The learned CIT(A) would give an effective opportunity of being beard to the assessee on the issue of belated filing of the appeal. In case, he

condones the delay, the Id. CIT(A) would adjudicate the issues on merits. In case, he is not condoning the delay in filing the appeal, after giving effective opportunity, he shall pass a speaking order. Thus, the corresponding grounds of appeal are allowed.

6. In the result, the appeal of assessee is allowed.

Order pronounced on 13th February, 2020 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
न्यायिकसदस्य/ Vice President

Sd/-
(एसजयरामन)
(S. JAYARAMAN)
लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 13th February, 2020.

K S Sundaram

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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