

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

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री एस जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2249/Chny/2019
निर्धारण वर्ष /Assessment Year: 2016-17

Mr. Senneerkuppam Kannappan-
Sekar,
New No.2/77, Old No.2/110, Avadi
Main Road, Senneerkuppam,
Chennai-600 056.

Vs. The Income Tax Officer,
Non-Corporate Ward-8(5),
Chennai.

[PAN: ABCPS 6056 M]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr. Y.Sridhar, CA

प्रत्यर्थी की ओर से /Respondent by

: Mr. AR.V.Sreenivasan, JCIT

सुनवाई की तारीख/Date of Hearing

: 17.02.2020

घोषणा की तारीख /Date of Pronouncement

: 17.02.2020

आदेश / ORDER

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

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-9, Chennai, dated 22.05.2019, and pertains to the AY 2016-17.

2. Shri Y.Sridhar, CA, Ld.Counsel for the assessee submitted that the Ld.CIT(A) dismissed the appeal of the assessee on the ground that there was a delay of one day and the assessee has not filed application for

condonation of delay. Inviting the attention of this Tribunal to the Assessment Order, Ld.Counsel for the assessee submitted that the Assessment Order was passed on 24.12.2018 and the appeal was admittedly filed on 24.01.2019. If we exclude the date of receipt of copy of the order of the Ld.CIT(A) and the date of filing of the appeal before the Ld.CIT(A), there is no delay at all. However, the Ld.CIT(A) has taken the day from the date of the Assessment Order and also included the date of the filing of the appeal before him. Therefore, the Ld.CIT(A) is not justified in dismissing the appeal.

3. We heard Shri AR.V.Sreenivasan, JCIT/Departmental Representative also. It is not a dispute that the Assessment Order was passed on 24.12.2018. Even assuming that the Assessment Order dated 24.12.2018 was served on the assessee on the next day i.e. 25.12.2018 and if we exclude the date of filing of the appeal i.e. 24.01.2019, the assessee has filed the appeal before the Ld.CIT(A) well within the period of limitation. Therefore, the Ld.CIT(A) is not correct in saying that the appeal was filed beyond the period of limitation. This Tribunal is of the considered opinion that the appeal of the assessee was filed well within the period of limitation. Therefore, the Ld.CIT(A) has to dispose the appeal of the assessee on merits. Accordingly, the order of the Ld.CIT(A) is set aside and the entire issue raised by the assessee in the grounds of appeal is remitted back to the file of the Ld.CIT(A). The Ld.CIT(A) shall dispose the appeal of the assessee on merits after giving a reasonable opportunity to the assessee.

4. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 17th February, 2020, in Chennai.

Sd/-

(एस. जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. GANESAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 17th February, 2020.

TLN

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