

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'C' BENCH : CHENNAI

श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष

एवं एस जयरामन, लेखा सदस्य

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER &
SHRI S.JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.Nos.2865 to 2884 /Chny/2019

Assessment years:

2013-14(24Q-Q2),	2013-14(24Q-Q3),	2013-14(26Q-Q2),
2013-14(26Q-Q3),	2014-15(26Q-Q1),	2014-15(26Q-Q2),
2014-15(26Q-Q3),	2014-15(26Q-Q4),	2014-15(24Q-Q1),
2014-15(24Q-Q3),	2014-15(24Q-Q2),	2015-16(24Q-Q1),
2015-16(24Q-Q4),	2015-16(24Q-Q2),	2015-16(24Q-Q3),
2015-16(24Q-Q4),	2015-16(26Q-Q1),	2015-16(26Q-Q2),
2015-16(26Q-Q3),	2015-16(26Q-Q4),	

Sri Arumugam Lakshmanan,
No.40(old No.23),Kamdar Nagar,
First Main Road, Nungambakkam,
Chennai 600 034.

Vs. The Assistant Commissioner of
Income Tax,
Centralized Processing Cell(CPC)
Aayakar Bhawan,Vaishali,
Sector-3,Ghaziabad. 201 010.

[PAN AABPL 7288 C]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr.Arjunraj,C.A
प्रत्यर्थी की ओर से /Respondent by : Mrs.Vijayaprabha,JCIT,D.R

सुनवाई की तारीख/Date of Hearing : 27-05-2020
घोषणा की तारीख /Date of Pronouncement : 27 -05-2020

आदेश / ORDER

PER BENCH:

These 20 appeals are filed by the Assessee against the consolidated order of the Commissioner of Income Tax

(Appeals)-17, Chennai in appeal Nos.475 to 484, 486 to 495 /18-19, dated 25.09.2019, for the assessment years 2013-14(24Q-Q2), 2013-14(24Q-Q3), 2013-14(26Q-Q2), 2013-14 (26Q-Q3), 2014-15(26Q-Q1), 2014-15(26Q-Q2), 2014-15(26Q-Q3), 2014-15(26Q-Q4), 2014-15(24Q-Q1), 2014-15(24Q-Q3), 2014-15(24Q-Q2), 2015-16(24Q-Q1), 2015-16(24Q-Q4), 2015-16(24Q-Q2), 2015-16(24Q-Q3), 2015-16(24Q-Q4),2015-16(26Q-Q1),2015-16(26Q-Q2),2015-16(26Q-Q3), 2015-16(26Q-Q4).

2. As the facts and issues are identical in all these 20 appeals of assessee, they are heard together and are disposed off by this common order.

3. Mr.Arjunraj, represented on behalf of the assessee, and Mrs.Vijayaprabha represented on behalf of the Revenue.

4. It was submitted by the learned A.R. that the assessee had deducted TDS and filing electronically TDS return. The orders had been passed in levying late filing fee under Section 234E of the Act and demands were raised under Sections 200A and 154 of the Act. It was a submission that these appeals have been filed belatedly before the learned CIT(A), and there is a substantial delay in filing of these appeals varying from 223 days to maximum of 927 days. It was a submission that the reason for the delay in

filing of these appeals was that the Accountant of the assessee, who was handling the income tax matters for both the assessee and company in which the assessee was a Director, and who was responsible for co-ordinating with Chartered Accountant firm, had been entrusted with the work of attending the e-orders/notices received. It was submitted by the Ld. A.R. that there was a dispute between the said Accountant and the Management of the company, in which the assessee was one of the Directors. As a consequence to the various problems had been caused, the said Accountant had not brought to the assessee's knowledge the Notices issued in the assessee's case to the attention of the Chartered Accountant firm and had subsequently left the services of both the assessee and the company in March, 2017. It was a submission that the learned CIT(A) did not accept the reasons submitted by the assessee and dismissed the assessee's appeals by not condoning the delay. It was a submission that on merits the issue was in favour of the assessee as held in various cases by the Tribunal holding that the levy under Section 234E prior to 01.06.2005 was invalid as there was no enabling provision in Section 200A vis-à-vis Clause (1)(C) of 234E for the levy of such fee while processing the statement

of tax deducted at source. It was a prayer that the delay in filing of these appeals before the learned CIT(A) may be condoned and the issues in the appeal restored to the file of the learned CIT(A) for adjudication on merits. It was a further submission that under similar circumstances, the delay in filing of the appeals before the learned CIT(A) in the case of M/s.Thirumurugan Plastics P. Ltd., in I.T.A. No. Nos.2969 to 2987/Chny/2019 for assessment years 2013-14 to 2015-16 had been condoned by the Tribunal vide order dated 27.12.2019 and the issues restored to the file of learned CIT(A) for adjudication on merits.

5. In reply, the Ld. D.R submitted that the condonation of delay is an issue on facts and ignorance of procedure in respect of e-filing and e-receipt of notices is not an acceptable reason. It was submitted by the Ld. D.R. that the delay in filing of these appeals had been rightly considered by the learned CIT(A) when dismissing the appeals of the assessee. It was a prayer that the order of the learned CIT(A) was liable to be upheld.

6. We have heard the rival submissions and perused the materials available on record. It is very much known in law that when substantial justice is pitted against technicalities,

then substantial justice must prevail. Similarly in the case of the company, M/s.Thirumurugan Plastics P. Ltd., referred to supra in which the assessee was a Director, also there was delay in filing of these appeals on identical grounds, the Co-ordinate Bench of the Tribunal in that cases has held at para-6 of its order as follows:-

"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.

After condoning the delay, the issues had been restored to the file of learned CIT(A) for adjudication on merits. As the facts are also identical in the present cases of appeals, we find no reason to take any different stand from that taken by this Co-ordinate Bench of the Tribunal in the case of the M/s.Thirumurugan Plastics P. Ltd., referred to supra. In these circumstances, and on identical reasons, the delay in filing of all the appeals by the assessee in the present cases also before the learned CIT(A) stand condoned and the issues raised in these appeals are restored to the file of learned CIT(A) for adjudication on merits.

7. In the result, all these 20 appeals filed by the assessee are partly allowed for statistical purposes.

Order pronounced in the open court after conclusion of hearing on 27th May, 2020, at Chennai.

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

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

चेन्नई/Chennai

दिनांक/Dated: 27th May, 2020.

K S Sundaram

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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