

आयकर अपीलिय अधिकरण, 'बी' (एस एम सी) न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'B' (SMC) BENCH, CHENNAI  
श्री महावीर सिंह, उपाध्यक्ष के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT**

आयकर अपील सं./ITA No.: 125/CHNY/2020  
निर्धारण वर्ष /Assessment Year: 2012-13

**M/s. Ramani Timber Corporation,**  
No.3/132-A, Thanjavur Road,  
Opp to UDC Kattur,  
Trichy – 620 019.

**PAN : AAEFR 9407J**

(अपीलार्थी/Appellant)

**The ACIT,**  
v. Circle -3(1),  
Trichy.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : None  
प्रत्यर्थी की ओर से/Respondent by : Shri B. Sajive, JCIT  
सुनवाई की तारीख/Date of Hearing : 09.11.2021  
घोषणा की तारीख/Date of Pronouncement : 09.11.2021

**आदेश /O R D E R**

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-1, Trichy, in ITA No.138/2018-19/CITA(A)-1/TRY vide order dated 16.09.2019. The Assessment was framed by ACIT, Circle-3(1), Trichy for the assessment year 2012-13 vide order dated 31.12.2018 U/s 143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter 'the Act').

2. At the outset, it is noticed that the assessee has filed written submissions and requested for deciding the appeal on the basis of written submissions.

3. This appeal by the assessee is delayed by 37 days and reasons stated in affidavit along with condonation petition was that Managing Partner of the firm went to Gujarat to meet his relatives for a family function in Kutch region. Since the Patidhar agitation broke out paralyzing movement of trains, the Managing Partner could not return to Trichy city in time and appeal could not be filed. It was requested that the delay of 37 days be condoned as there was a reasonable cause. When these facts were confronted to the Id.senior Department Representative, he could not controvert the above facts. Seeing the reasons, I find that there is a reasonable cause for delay in filing the appeal and hence, I condone the delay and admit the appeal.

4. I have gone through the order of CIT(A) and noticed from the findings recorded in Para 3.6 & 3.7 that simply he confirmed the action of the AO without considering anything. The relevant findings of CIT(A) reads as under:-

“3.6 The assessee agitates very fact of the Assessing Officer asking for cash flow and states that cash flow statements are necessary when there are too many transactions and in this case there are no such complexities and hence non-filing of cash flow or filing of the same in income tax return and not before the Assessing Officer should be the sufficient compliance.

3.7 It is seen that assessee has taken a rhetorical and an argumentative stand and does not directly comment on failure to produce cash flow or to show that cash introduced in the firm was

the same as was received by partners from their relatives in form of gift. As source of introduction of capital in the firm is not proved, the action of the AO to add the same to the income of firm as unexplained cash credit cannot be faulted.”

5. When these facts were confronted to Id. senior Department Representative, he stated that matter can be referred back to the file of the CIT(A) for allowing one more opportunity to the assessee and for passing a speaking order by the CIT(A).

6. After hearing Id. senior DR and noting that the CIT(A)'s order is not a speaking order on merits, I deem it fit to set aside the order of CIT(A) and remand the matter back to the his file for fresh consideration.

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

Order pronounced in the open court on 9<sup>th</sup> November, 2021 at Chennai.

Sd/-

(महावीर सिंह )

**(Mahavir Singh)**

उपाध्यक्ष /Vice President

चेन्नई/Chennai,

दिनांक/Dated, the 9<sup>th</sup> November, 2021

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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