

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI  
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।  
Before Shri V. Durga Rao, Judicial Member &  
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. No.2167/Chny/2018  
निर्धारण वर्ष/Assessment Year: 2009-10

Shri Venkatesh Rajgopal,  
'Vidyanjali, No. 10, Rajgopalan 2<sup>nd</sup>  
Street, Valmiki Nagar, Thiruvanmiyur,  
Chennai 600 041.

[PAN: ADFPR6333R]

(अपीलार्थी /Appellant)

The Assistant Commissioner of  
Income Tax,  
Company Circle 1(3),  
Nungambakkam, Chennai – 600 034.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri G. Johnson, CIT  
सुनवाई की तारीख/ Date of hearing : 15.12.2021  
घोषणा की तारीख /Date of Pronouncement : 22.12.2021

**आदेश / O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 4, Chennai, dated 27.04.2018 relevant to the assessment year 2009-10.

2. The appeal filed by the assessee is delayed by ten days, for which, the assessee has filed a petition for condonation of the delay in support of an affidavit, to which; the Id. DR has not raised any serious objection. Consequently, since the assessee was prevented by

sufficient cause, the delay of ten days in filing of the appeal stands condoned and the appeal is admitted for adjudication.

3. When the appeal was taken up for hearing, the Id. Counsel for the assessee has submitted that the Assessing Officer, by order dated 25.10.2011 passed rectification order under section 154 of the Income Tax Act, 1961 ["Act" in short] by raising demand of ₹.3,42,060/- against the order under section 143(1) of the Act. It was further submission that the assessee carried the matter in appeal before the Id. CIT(A) and submitted before him that as per section 154(3) of the Act, the Assessing Officer has to issue a notice before passing the order. It was further submission that no such notice has been issued by the Assessing Officer. The Id. Counsel for the assessee has further submitted that without considering the ground raised by the assessee, the Id. CIT(A) simply confirmed the rectification order. Thus, the Id. Counsel for the assessee prayed that an opportunity should be given to the assessee before the Assessing Officer to substantiate his case.

3. On the other hand, the Id. DR fairly accepted that the issue may be remitted back to the Assessing Officer.

4. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. We find that under section 154(3) of the Act, the Assessing Officer is bound to issue show-

cause notice before passing rectification order under section 154 of the Act. However, in this case, no such notice has been issued by the Assessing Officer. Before the Id. CIT(A), the assessee has raised a ground that no notice has been issued. However, without considering the ground raised by the assessee, the Id. CIT(A) concluded his order on merits. In our opinion, an opportunity should have been given to the assessee before passing order under section 154 of the Act. In view of the above, we set aside the order passed by the Id. CIT(A) and remit the matter back to the file of the Assessing Officer to adjudicate the issue afresh after giving notice to the assessee and considering his reply thereon.

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

Order pronounced on the 22<sup>nd</sup> December, 2021 at Chennai.

Sd/-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, the 22.12.2021

Vm/-

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.