

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' 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.501/Chny/2020  
निर्धारण वर्ष/Assessment Year: 2013-14

M/s. Jagadisa Realtors Private Limited,  
No. 2, Pillaiyar Koil 1<sup>st</sup> Cross Street,  
Kilambakkam, Annai Anjugam Nagar  
Post, Urapakkam 603 211.  
**[PAN:AACCJ0095R]**

Vs. The Income Tax Officer,  
Corporate Circle 2(3),  
Chennai 600 034.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri T. Banusekar, C.A.  
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT  
सुनवाई की तारीख/ Date of hearing : 02.02.2022  
घोषणा की तारीख /Date of Pronouncement : 10.02.2022

**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) 6, Chennai dated 19.11.2019 relevant to the assessment year 2013-14.

2. Facts are, in brief, that the assessee M/s. Jagadisa Realtors Private Limited filed its return of income declaring NIL income. The case was elected for scrutiny and issued notices as per procedure and assessment was completed under section 144 of the Income Tax Act,

1961 ["Act" in short] by order dated 18.03.2016. In the assessment order, the Assessing Officer has noted that the assessee company has not properly represented and due confirmation from the sundry creditors not filed. Therefore, the Assessing Officer treated the unconfirmed sundry credits as unexplained cash credits under section 68 of the Act and added as income of the assessee.

3. The assessee carried the matter in appeal before the Id. CIT(A) and the assessee has filed the appeal manually on 12.04.2016. As per the Income Tax (3<sup>rd</sup> Amendment) Rules, 2016, Rule 45 of the Income Tax Rules, 1962 has been amended mandating compulsory e-filing of appeals before an Appellate Commissioner with effect from March, 01, 2016 for all persons who are required to furnish their return of income electronically. When it was brought to the notice of the assessee, the assessee has filed appeal in electronic mode on 28.12.2016, wherein, there is delay of 255 days in filing the appeal before the Id. CIT(A). The assessee has not filed any petition for condonation of delay. Accordingly, the Id. CIT(A) dismissed the appeal of the assessee on the ground that there is no delay condonation petition filed by the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that there is no delay in filing the appeal, because, the assessee filed the appeal manually on 12.04.2016 and subsequently, as per the advice of the Department again the appeal was filed in electronic mode on 28.12.2016. It was further submitted that the assessee was not given any opportunity to file petition for condonation of delay as the assessee was not aware of the delay since the assessee has filed the appeal manually within the time.

5. On the other hand, the Id. DR strongly supported the order passed by the Id. CIT(A).

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. Against the assessment order, the assessee has filed an appeal manually on 12.04.2016 and subsequently, as the directions of the Department, the assessee has filed the appeal in electronic mode on 28.12.2016. Admittedly, in this case, no petition for condonation of delay has been filed and accordingly, the Id. CIT(A) has dismissed the appeal as the assessee has not explained the delay in filing the appeal. Since the

assessee has filed the appeal manually within the time prescribed under the Act, the delay in filing the belated e-appeal was not notified to the assessee. Under these facts and circumstances, we are of the opinion that the assessee should be given an opportunity to explain the delay in filing the appeal by filing petition for condonation of delay. Accordingly, we set aside the order passed by the Id. CIT(A) and remit the matter back to the file of the Id. CIT(A) to decide the entire matter afresh in accordance with law after affording meaningful opportunity of being heard to the assessee. The assessee is also directed to file the petition for condonation of delay before the Id. CIT(A).

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

Order pronounced on 10<sup>th</sup> February, 2022 at Chennai.

Sd/-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 10.02.2022

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.