

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. Nos.724 & 726/Chny/2020
निर्धारण वर्ष/Assessment Year: 2015-16

M S & Company,
67, 1st Floor, Tajmahal Salai,
Annamalai Nagar, Trichy 620 018.

Vs. The Income Tax Officer,
Ward I(2),
Trichy.

[PAN:AAMFM3765G]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : None
प्रत्यर्थी की ओर से/Respondent by : Shri Sajit Kumar, JCIT
सुनवाई की तारीख/ Date of hearing : 01.03.2022
घोषणा की तारीख /Date of Pronouncement : 09.03.2022

आदेश / O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

Both the appeals filed by the assessee are directed against different orders of the Id. Commissioner of Income Tax (Appeals) 1, Trichy, both dated 01.06.2020 relevant to the assessment year 2015-16 towards confirmation of addition of difference in turnover shown in service tax return and income tax return as well as confirmation of levy of penalty under section 271(1)(c) of the Income Tax Act, 1961 ["Act" in short].

2. Both the appeals filed by the assessee are delayed by four days due to COVID-19 pandemic and accordingly, the delay is condoned and admitted the appeals for adjudication.

3. When the appeals were taken up for hearing, none appeared on behalf of the assessee or filed any adjournment petition despite service of notice [RPAD on record]. Hence, we proceed to decide the appeals on merits after hearing the Id. DR.

4. We have heard the Id. DR, perused the materials available on record and gone through the orders of authorities below. The Assessing Officer has completed the assessment under section 143(3) of the Act dated 31.12.2017 by assessing total income of the assessee at ₹.67,22,994/- against the loss of ₹.5,26,446/- after making additions towards difference in turnover shown in service tax return and income tax return of ₹.71,81,004/-, disallowance under section 40(a)(ia) of the Act at ₹.67,500/- and interest on IT return of ₹.936/-. Subsequently, the Assessing Officer initiated penalty proceedings and levied penalty of ₹.21,54,300/- under section 271(1)(c) of the Act vide order dated 26.06.2018. The assessee carried the matter in appeal before the Id.

CIT(A) against quantum addition as well as levy of penalty under section 271(1)(c) of the Act.

4.1 In the grounds of both the appeals, the assessee has raised a specific ground that the Id. CIT(A) has erred in law as per section 249(3) of the Act without considering the condonation of delay petition and not by offering a reasonable opportunity of being heard to explain the reason for the delay in filing the appeal. On perusal of the Id. CIT(A)'s order against quantum addition as well as levy of penalty under section 271(1)(c) of the Act that the assessee has been afforded an opportunity of being heard to explain the delay in filing both the appeals or the appeals were adjudicated on merits. Under these facts and circumstances, we set aside both the orders of the Id. CIT(A) passed against quantum additions as well as levy of penalty under section 271(1)(c) of the Act and remit the matter back to the file of the Id. CIT(A) to adjudicate the appeals on merits in accordance with law after considering the condonation petitions for the delay in filing the appeals by affording sufficient opportunities of being heard to the assessee. The assessee is also directed to file the condonation petitions for the delay in filing the appeals in proper format by

explaining the reasons for the delay. Thus, both the appeals filed by the assessee are allowed for statistical purposes.

5. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on 09th March, 2022 at Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 09.03.2022

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.