

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री गिरीश अग्रवाल, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.:831/CHNY/2020
निर्धारण वर्ष /Assessment Year: 2013 - 2014

Shri. Vimal Raj Ramachandran,
C/o M/s. CNGSN & Associates LLP,
Chartered Accountants,
Flat C & D, No.43, Swathi Court,
Vijayaraghava Road, T. Nagar,
Chennai – 600 017.

PAN : ADNPV 0407 G

(अपीलार्थी/Appellant)

Vs. The Assistant Commissioner of
Income Tax,
Non-Corporate Circle – 18,
Chennai – 600 034.
Tamil Nadu

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Mr. B. Ramakrishnan, C.A
: Mr. G. Johnson, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 03.03.2022
घोषणा की तारीख/Date of Pronouncement : 04.03.2022

आदेश /O R D E R

PER MAHAVIR SINGH, VP:

This appeal by the Assessee is arising out of the order of the Commissioner of Income Tax (Appeals)-15, Chennai in ITA No.029/CIT(A)-15/2016-17; dated 28.12.2018. The assessment was framed by the ACIT, Nonp-Corporate Circle-18, Chennai for the Assessment Year 2013 - 2014 u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), vide order dated 28.03.2016.

2. At the outset, it is noticed that the appeal filed before us is time barred by 593 days and the Assessee has filed a condonation petition which is notarized by the local notary in South Africa and the Assessee has also enclosed a cancelled Rs.100/- Stamp Paper of the Indian Non-Judicial Stamp.

3. In the affidavit, the Assessee has contended that the Commissioner of Income Tax (Appeals) had dismissed his appeal vide order dated 28.12.2018. As the appeal was not filed electronically, as per Rule-45 of the Income Tax Rules, 1962 (hereinafter referred to "as Rules"), it was contended that the Assessee is a Non-resident Indian employed in South Africa and that he was not aware of the order being passed as the address was for communication in Pondicherry, as occupied by his mother, who is a senior citizen. According to him, she is not aware of any service of the order from the Department but later on follow-up of the status of the appeal filed with the Commissioner of Income Tax (Appeals)-15, the Assessee was informed that the said order was passed dismissing the appeal of the Assessee, vide order dated 28.12.2018. The Assessee, then obtained a copy of the order from the office of the Commissioner of Income Tax (Appeals)-15 and filed the appeal

before the Tribunal on 10.10.2020 with the delay petition mentioning the reason of delay of 593 days. It was contended that as the Assessee was a non-resident and he could not file the appeal as he was not in India during that period.

When these facts were pointed out, the learned senior Departmental Representative has not objected for the condonation of delay.

4. We in the given reasons admit the appeal and condone the delay.

5. Further, it is noticed that the Commissioner of Income Tax (Appeals) has dismissed the appeal on two counts; first, that the appeal is belatedly filed with a delay of 84 days and secondly, that the Commissioner of Income Tax (Appeals) dismissed the appeal as non-est for the reason that the appeal furnished by the Assessee was not filed electronically as prescribed under the Income Tax Rules, 1962.

6. The learned Counsel for the Assessee stated that the Assessee has filed the appeal originally through physical filing which was within the time but the electronically filed appeal was belated by 84 days as he was under the impression that the

appeal has to be filed physically. It seems that the cause stated by the Assessee is reasonable and hence we condone the delay before the Commissioner of Income Tax (Appeals) also of 84 days and direct the Commissioner of Income Tax (Appeals) to consider the E-filed appeal and decide the issue on merits.

7. The order of the Commissioner of Income Tax (Appeals) is set aside and the matter is remanded back to his file for fresh adjudication on merits.

8. In the result, the appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the court on 4th March, 2022 at Chennai.

Sd/-

(गिरीश अग्रवाल)

(GIRISH AGRAWAL)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 4th March, 2022

IA, Sr. PS

आदेश की प्रतिलिपि ँ ग्रेषित/**Copy to:** 1. ँ पीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (ं पील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF