

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **2130/CHNY/2018**

निर्धारण वर्ष /Assessment Year:2013-14

M/s. VND Motors (Firm),
Rep by its Managing Partner,
Shri D. Venkatesan,
Thirukokarnam,
No.10, SPN Complex,
Alangudi Main Road,
Pudukottai – 622 001

The Income Tax Officer,
v. Ward-1,
8663/2 Annavasal Road,
Chola Real Estate,
Pudukottai – 622 002.

PAN: AAHFV 0292L

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: None
: Shri G. Johnson, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 30.03.2022

घोषणा की तारीख/Date of Pronouncement

: 30.03.2022

आदेश /O R D E R

PER MAHAVIR SINGH, VP:

This appeal by assessee is arising out of the order of the learned Commissioner of Income Tax (Appeals)-1, Tiruchirapalli in ITA No.281/15-16/CIT(A)-1/Try dated 05.01.2018. The penalty under dispute levied u/s.271B Income of the Income Tax Act, 1961

(hereinafter 'the Act'), by the Income Tax Officer, Ward-1, Pudukkotai vide order dated 16.02.2015 for the assessment year 2013-14.

2. At the outset, it is noticed that this appeal is barred by limitation by 128 days. The assessee has filed condonation petition stating the reason, which reads as under:-

“The order of the Commissioner of Income Tax (Appeals)-1, Tiruchirapalli, ITA No.281/15-16/CIT(A)-1.Try/dated 05/1/2018 was served on the Petitioner on 06/1/2018. The last day for filing the Appeal before the Income Tax Appellate Tribunal, Chennai, fell on 06-03-2018. However, the Appeal was actually filed on --- -- 2019 after a delay of days. The Petitioner/appellant was suffering from hypertension with heart disease and got treated by doctor and the doctor advised medical rest and the further advised that the Petitioner has to come off and on coming for treatment hence the appellant could not file appeal in time on receipt of the CIT(A)'s order, and only on 2018, the Appellant realized that the appeal was not filed. Immediately the Petition instructed the advocate to prepare the appeal papers. The appeal papers were prepared and forwarded to the Assessee for signature on --- --- 2018 hence assessee had taken copies of the enclosures, signed the appeal papers and forwarded the entire set to his Counsel on late evening of --- --- 2018 for filing the same before the Tribunal. The Counsel filed the appeal before this Hon'ble Tribunal on --- --- 2018.

The Petitioner submits that the delay of days was due to the above stated reasons and was not deliberate and neither willful nor wanton.

It is therefore prayed that the delay of days may be condoned and the Appeal admitted and disposed of on merits.

This is accompanied by affidavit dated 27.06.2018, wherein it was stated as under:-

“I, D. Venkatesan son of Durairajan, aged 51 about years, residing at no, do hereby solemnly and sincerely state that a, firm as follows,

I am the Managing Partner of the petitioner / Appellant in the above mentioned appeal. I hereby

State that whatever has been mentioned in the accompanying petition is true to the best of my knowledge and belief.

I further state that the delay of days 128 in filing the appeal was due to the reasons stated in accompanying petition and was not deliberate and neither willful nor wanton.

I pray that for the reasons mentioned in the accompanying petition for Condonation of Delay in filing the Appeal, the Hon'ble Income Tax Appellate Tribunal may be pleased to condone the delay of 128 days and admit the appeal and dispose of it on merits and render justice.

This appeal was fixed on number of occasions i.e., 11 occasions but none is present from assessee's side despite notice issued through RPAD. The notices issued through RPAD were returned with a remark "no such addressee in this number". It means that the assessee has either left the address, as 6 / 7 RPAD notices returned back. As the assessee is not interested in prosecuting the appeal, we decide the issue ex-parte qua assessee.

3. It is noticed that in the condonation petition, the assessee has not given any dates and left the dates blank, when the appeal was actually received, when appeal was filed, when the appeal papers were sent to the assessee for signature, when it was received by the counsel. It means that the assessee filed this condonation petition without going into the contents of the same and in a casual manner. When these facts were confronted to Id. Senior DR, Shri G. Johnson,

he stated that the assessee could not make out the case for condonation of delay as the basic details are not given.

4. We have heard Id. Senior DR and gone through the facts and circumstances of the case. We noted from the above reproduced petition for condonation of delay as well as affidavit supporting the condonation petition that the basic details are not given. No reason is submitted for condonation of delay as the appeal is barred by limitation by 128 days as noted by Registry. As this is not a fit case for condonation of delay, we dismiss the appeal as un-admitted.

5. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 30th March, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 30th March, 2022

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. |