

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'D' 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. No.2702/Chny/2018
निर्धारण वर्ष/Assessment Year: 2011-12

Shri Lalith Sharma,
No. 933, TVS Colony, 50th Street,
Anna Nagar West Extn.,
Chennai 600 101.
[PAN:ABHPL9099A]

Vs. The Income Tax Officer,
Non Corporate Ward 5(2),
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : None
प्रत्यर्थी की ओर से/Respondent by : Shri G. Johnson, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 15.03.2022
घोषणा की तारीख /Date of Pronouncement : 30.03.2022

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) 5, Chennai dated 28.06.2018 relevant to the assessment year 2011-12.

2. Brief facts of the case are that the assessee has filed his return of income for the assessment year 2011-12 on 31.10.2011 admitting an income of ₹.11,80,010/-. After following due procedure, the Assessing Officer has completed the assessment order under section

143(3) of the Act by assessing total income of the assessee at ₹.36,25,440/- after making various additions. On appeal, the Id. CIT(A) dismissed the appeal of the assessee on the ground of limitation of 4 years and 192 days delay in filing the appeal before the Id. CIT(A).

3. On being aggrieved, the assessee is in appeal before the Tribunal.

4. When the appeal was taken up for hearing, none appeared on behalf of the assessee despite issue of notice of hearing and since the hearing of the appeal is getting adjourned since 07.03.2019 onwards, we proceed to decide the appeal on merits after hearing the Id. DR.

5. We have heard the Id. DR, perused the materials available on record and gone through the orders of authorities below. In this case, against the assessment order, the appeal filed before the Id. CIT(A) by the assessee was delayed by 4 years and 192 days in filing the appeal. In Form No. 35, the assessee has explained the reasons for the delay in filing the appeal before the Id. CIT(A). Since the assessee has not filed any evidence in support of medical treatment, the Id. CIT(A) has not condoned the delay and admitted the appeal for adjudication. We

find that the assessee is required to file petition for condonation of delay in support of an affidavit explaining the cause for the delay with evidence and the same was not done in this case. To meet the ends of natural justice, we are of the opinion that the assessee shall be given an opportunity to file delay condonation petition in support of an affidavit with evidences before the Id. CIT(A). Accordingly, we remit the matter back to the file of the Id. CIT(A) to consider the delay condonation petition as may be filed by the assessee and adjudicate the issues on merits in accordance with law after affording opportunity of being heard to the assessee.

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

Order pronounced on 30th March, 2022 at Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 30.03.2022

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.