

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' 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.: **340/CHNY/2021**

निर्धारण वर्ष /Assessment Year: 2017-18

Shri Manish Raichand Mardia,
7, Vishranth Apartments,
Brithapet Road, Vepery,
Chennai – 600 007.

The Income Tax Officer,
v. Non-Corporate Ward – 9(2),
Chennai.

PAN: AAIPM 6289M

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Yeshwanth Kumar, CA for
Smt. T.V. Muthu Abirami, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri AR. V. Sreenivasan, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 11.04.2022

घोषणा की तारीख/Date of Pronouncement

: 11.04.2022

आदेश /O R D E R

PER MAHAVIR SINGH, VP:

This appeal by the assessee is arising out of the order of the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Order No.:ITBA/NFAC/S/250/2020-21/1031576548(1) dated 18.03.2021. The assessment was framed by the Income Tax Officer, Non-Corporate Ward 9(2), Chennai for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter 'the Act') vide order dated 16.12.2019.

2. At the outset, it is noticed that the appeal by assessee is barred by limitation by 117 days. It is noticed that the order of CIT(A) is dated 18.03.2021, which was received by assessee only on 20.03.2021 but the appeal was filed only on 23.09.2021. It means that there is a delay of 117 days but assessee has not filed any condonation petition. It seems that this delay has occurred only during Covid-19 pandemic and the Hon'ble Supreme Court in Miscellaneous Application No.665 of 2021 vide order dated 23.03.2020 has given directions that the delay are to be condoned during this period 15.03.2020 to 14.03.2021 and they have condoned the delay up to 28.02.2022 in Miscellaneous Application No.21 of 2022 vide order dated 10.01.2022. In term of the directions of Hon'ble Supreme Court, we condone the delay in filing of this appeal by assessee and admit the appeal for adjudication.

3. The Id.AR for the assessee Shri Yeshwanth Kumar, requested for adjournment of this appeal, which was rejected for the reason that the first ground raised by the assessee is as regards to the violation of principles of natural justice. It is noticed from the order of CIT(A) that the CIT(A) has not gone into any detail and no opportunity of being heard was provided. Even, the CIT(A)'s adjudication is one liner just agreeing with the AO. The CIT(A)'s adjudication in para 6 & 7 reads as under:-

6. Thus, before the Assessing Officer as well as during the Appellate proceedings, the Appellant did not file any details with supporting evidence to establish the source of cash deposits of Rs.8,20,000/-, neither any cash book details, details of withdrawal from bank nor proof of loans were filed.

7. In view of the above facts, I am inclined to agree with the order of the Assessing Officer. However, it will be reasonable to give allowance of Rs.2,50,000/- for the past savings. Accordingly, the addition is restricted to Rs.5,70,000/- and the Grounds of Appeal is 'Partly Allowed'.

3.1 When this was pointed out to Id. Senior DR, he could not controvert the above fact situation.

4. After hearing both the sides and going through the fact that the adjudication by CIT(A) is not by a speaking order rather no facts are discussed at all, we set aside the order of CIT(A) and remand the matter back to his file for fresh adjudication.

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

Order pronounced in the court on 11th April, 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 11th April, 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. |