

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.: **3444/CHNY/2019**

निर्धारण वर्ष /Assessment Year:2011-12

M/s. Servocraft HR Solutions
Pvt. Ltd.,
No.86/74, V Block, 3rd Floor,
5th Avenue, Anna Nagar,
Chennai – 600 040.

The DCIT,
v. Company Circle VI (2),
Chennai.

PAN: AAMCS 8400M

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: None

प्रत्यर्थी की ओर से/Respondent by

: Shri Sanat Kumar Raha, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 18.04.2022

घोषणा की तारीख/Date of Pronouncement

: 20.04.2022

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)-16, Chennai in ITA No.587/CIT(A)-16/2013-14 dated 11.12.2018. The assessment was framed by the DCIT, Company Circle VI(2), Chennai u/s.143(3) of the Income Tax Act, 1961 (hereinafter 'the Act') for the assessment year 2011-12 vide order dated 18.01.2013.

2. At the time of hearing, none is present for assessee and it is noticed that the CIT(A) has dismissed the appeal as time barred and beyond limitation. It is noted that the delay was of 23 days before CIT(A) and the assessee has filed condonation petition stating that the appeal papers were mixed up with other papers. We noted that the order of CIT(A) is ex-parte and the CIT(A) has not condoned the delay and dismissed the appeal as barred by limitation. He observed in para 6.3 as under:-

6.3 The burden is on the assessee to reasonably explain day-to-day delay and establish that there existed reasonable and sufficient cause for the delay in filing the appeal.

However, the "Delay condonation Petition" was only a letter and not an affidavit and it was signed by the A.R. and not by the assessee. Moreover, the "Delay Condonation Petition" was vague and lacks any specific contentions and fails to explain day-to-day delay in reasonable manner.

3. We have heard Id. Senior DR and gone through the facts and circumstances of the case. We are of the view that the assessee should have been allowed to file condonation petition by the CIT(A). When these facts were confronted to Id. senior DR, he fairly agreed that matter can go back to the file of CIT(A) first on adjudication for condonation petition in case assessee files condonation petition and subsequently to decide the issue on

merits, in case delay is condoned. In term of the above, the order of CIT(A) is set aside and matter remanded back to his file for fresh consideration.

4. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the court on 20th 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 20th 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. |