

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।
Before Shri V. Durga Rao, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member

आयकर अपील सं./I.T.A. No.1043/Chny/2019
निर्धारण वर्ष/Assessment Year: 2006-07

M/s. Integrated Finance Company
Limited, R-10, II Floor, Prem Nagar
Colony, South Boag Road, T. Nagar,
Chennai 600 017.

Vs. The Assistant Commissioner of
Income Tax,
Corporate Circle 2(2),
Chennai.

[PAN:AAACI0876M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri R. Vijayaraghavan, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 19.04.2022
घोषणा की तारीख /Date of Pronouncement : 06.05.2022

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) 13, Chennai dated 01.12.2017 relevant to the assessment year 2006-07.

2. The appeal of the assessee was filed belatedly with a delay of 437 days in filing the appeal before the Tribunal. By way of filing an affidavit for condonation of delay in filing the appeal, the Id. Counsel for the assessee has prayed for condoning the delay and admitting the appeal

for adjudication. In the Affidavit, the assessee has submitted as under:

“2. I state that the order of the Commissioner of Income Tax (Appeals) dated 01.12.2017 passed u/s.143(3) was received by the Assessee Company on 16.2.2018 and the appeal should have been filed on or before 15.4.2018. However, the appeal was actually filed on 12.04.2019 resulting in a delay of 437 days.

3. I state that subsequent to receipt of order on 16.2.2018, we filed a Miscellaneous Petition before the CIT(A)-13, Chennai on 15.3.2018, requesting to consider issues once again based on the merits involved. The said Miscellaneous Petition was rejected vide order dated 11.4.2018 stating that the said petition was not filed electronically and also with a direction to file the appeal for rectification on e-portal of the Income Tax.

4. I state that only a few weeks ago we brought it to the notice of our Counsel the Miscellaneous Petition order dated 11.4.2018 and they advised us that we have to file an appeal before the Tribunal against the order passed by the CIT(A) under Section 143(3).

5. I state that the Assessee Company is under Provisional Liquidation under the direct supervision of the Hon'ble High Court of Madras. The Assessee has to make payments to Public Depositors and Bond Holders and with only Two staff, the Assessee is slowly trying to consolidate and recover dues for the purpose of making payments to over 4692 Public Depositors and 15750 Bond Holders whose dues are pending for over 15 years. Any reduction in Income Tax liability will only help the public.

6. I state that there are no office bearers to take care of the administrative operations and hence could not assess the overall implications and prepare the papers for filing appeal in time. For this reason the appeal was filed belatedly by 437 days before the Tribunal.

7. I state that subsequent to the advise of our Advocate, I gave the papers to our Advocate who have prepared the appeal and the same was filed before your Honour. Hence, it is submitted that the delay in filing the appeal is neither deliberate nor willful. I request that your Honour consider the background and circumstances and condone the delay in filing the appeal.

In the circumstances it is prayed that this Hon'ble Tribunal may be pleased to condone the delay of 473 days in filing the appeal and decide the appeal on merits and thus render justice.”

2.1 The Id. DR has not seriously object to the above submissions of the assessee. In view of the above submissions, we are of the considered opinion that the assessee was prevented by reasonable cause for delay in filing the appeal before the Tribunal. Accordingly, we condone the delay in filing the appeal and admit the appeal for adjudication.

3. Brief facts of the case are that the assessee filed its return of income for the assessment year 2006-07 on 09.12.2006 declaring loss (-) at ₹.79,76,46,960/- and the same was accepted under section 143(1) of the Income Tax Act, 1961 ["Act" in short] on 15.02.2008. Subsequently, the case was selected for scrutiny and notice under section 143(2) of the Act was issued and duly served on the assessee. After considering the submissions of the assessee as well as materials available on record, the Assessing Officer has completed the assessment under section 143(3) of the Act dated 29.12.2008 by assessing total income of the assessee at (-) ₹.4,88,01,288/- after making various disallowances/additions. On appeal, the Id. CIT(A) confirmed the assessment order and disallowed the appeal of the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal. Besides, challenging the issues on merits in the grounds of appeal, the assessee has also challenged the exparte order without giving an

opportunity to the assessee of being heard. The Id. Counsel for the assessee has submitted that the assessee company, being under liquidation, was under strenuous pressure of running behind the Hon'ble High Court and public depositors as well as bond holders for consolidation and recover the dues with lack of sufficient staff and thereby could not put appearance before the Id. CIT(A) and prayed for one more opportunity of being heard to the assessee to substantiate its claim before the Id. CIT(A).

5. On the other hand, the Id. DR relied on the orders of authorities below.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case, the assessee has not availed the opportunity of being heard accorded by the Id. CIT(A) on 23.05.2017, 16.06.2017, 16.08.2017, 15.09.2017, 08.11.2017 and 22.11.2017. We have also considered the detailed submissions made by the Id. Counsel. Taking into consideration of the entire facts and circumstance of the case, we are of the considered opinion that in order to meet the ends of natural justice, that to, the assessee is under liquidation, one more opportunity should be afforded to the assessee to substantiate its case before the Id. CIT(A). Accordingly,

we remit the entire issues to the file of the Id. CIT(A) for fresh adjudication after considering the materials/explanation as may be submitted by the assessee. The assessee is also strictly directed to submit its case with proper materials/ convincing explanation before the Id. CIT(A) for concluding the appellate order.

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

Order pronounced on 06th May, 2022 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 06.05.2022

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.