

आयकर अपीलिय 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.: **2512/CHNY/2019**  
निर्धारण वर्ष /Assessment Year: 2010-11

**Shri Manuel Anand David,**  
C-11, Venkataraman Road,  
Periyar Nagar,  
Chennai – 600 082.

**The Income Tax Officer,**  
v. Non-Corporate Ward 10(3),  
Chennai – 34.

**PAN: AGXPD 9534D**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: None

प्रत्यर्थी की ओर से/Respondent by

: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 05.05.2022

घोषणा की तारीख/Date of Pronouncement

: 11.05.2022

**आदेश /O R D E R**

**PER MAHAVIR SINGH, VP:**

This appeal by the assessee is arising out of the revision order of Principal Commissioner of Income Tax - 3, Chennai in C.No.3033(4)/PCIT-3/2018-19, order dated 28.03.2019 passed u/s.263 of the Income Tax Act, 1961 (hereinafter the 'Act') .

2. At the outset it is noticed that this appeal came up for hearing for the first time on 19.11.2019 and since then, this appeal was fixed for 17 times and except on one date i.e., 19.07.2021 Shri K.L. Jain appeared and sought for adjournment. Despite services of notice on various occasions, none is present and hence, we proceed to decide this appeal ex-parte after hearing Id. Senior DR.

3. From the facts, it is noticed that the appeal is time barred by 95 days and the assessee has filed affidavit stating the reasons. The revision order passed by PCIT is dated 28.03.2019 and it was communicated to the assessee on that very day as per records. The assessee filed appeal before Tribunal on 30.08.2019 and thereby there is a delay of 95 days. The assessee in his affidavit stated the reasons that he has received intimation u/s.143(1) of the Act and according to the same, the assessee's legal consultant stated that intimation is factually incorrect and application for rectification u/s.154 of the Act shall be filed. The assessee has stated the following reasons in the affidavit:-

“1) I, Manual Anand David aged about 50 years, son of David identified by PAN AGXPD9534D at present residing at Address C-11, Venkataraman Road, Periyar Nagar, Chennai – 600082 do solemnly affirm and state on oath as under:

2) That I received an Intimation for the assessment year 2010-11 under section 143(1) of the Income Tax Act 1962 on Date

3) That as per the said intimation I found that my returned income has been enhanced by Rs.9,08,505/- and a consequential demand of Rs. Has been made against me.

4) That I was advised by my legal consultant that the said intimation is factually incorrect and an application for rectification under section 154 shall be filed.

5) That I was advised by the legal consultant to file an appeal before the Hon'ble ITAT for relief but the appeal has already become barred by time limitation. Nevertheless the appeal was filed before this Hon'ble ITAT on date 30/08/2019 accompanied by an application for condonation of delay as provided under section 5 of the Limitation Act, 1963.

6) That in this way there is a delay of 95 days for which an application under Section 5 of the Limitation Act has been filed along with memorandum of appeal.

7) That delay in filing the appeal is because of a genuine belief of the applicability of a particular provision of the Income Tax Act 1962 which was not accepted by the Original authority.

8) That I had no intention to jeopardize the interest of the revenue by delaying the filing of the appeal.

4. When these were confronted to Id. Senior DR, he stated that the assessee in his affidavit or application is not talking about delay occurred on the order of revision passed by the PCIT and hence, no reason is cited.

5. After hearing Id. Senior DR, we noted from the application for condonation and affidavit filed, that the reasons stated are for the intimation order passed u/s.143(1) of the Act and not the revision order. Hence, we find no reason to condone the delay and hence, the appeal is dismissed as barred by limitation.

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

Order pronounced in the court on 11<sup>th</sup> May, 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 11<sup>th</sup> May, 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.            |