

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH, CHENNAI
श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE-PRESIDENT
AND SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

आयकरअपीलसं./I. T. A.No.258/Chny/2021

(निर्धारणवर्ष / Assessment Year: 2017-18)

Mrs. N.Dhivya Ragini Old No.46 New No.49, Valluvar Street (T.V.Amman Kovil Street) Arumbakkam,Chennai-600 106.	Vs	The Income Tax Officer, Non-Corporate Ward-8(2) , Chennai.
PAN: AIMPD 2201N		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Mr. R. Venkata Raman, C.A
प्रत्यर्थी की ओरसे/Respondent by	:	Mr. P.Muthushankar, Addl.CIT

सुनवाईकीतारीख/Date of hearing	:	27.04.2022
घोषणाकीतारीख /Date of Pronouncement	:	11.05.2022

आदेश / ORDER

PER G. MANJUNATHA, AM:

This appeal filed by the assessee is directed against order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre(NFAC), Delhi, dated 01.04.2021 and pertains to assessment year 2017-18.

2. At the outset, learned AR for the assessee submitted that the appeal filed by the assessee is time barred by 49 days for which necessary petition for condonation of delay along with affidavit explaining the reasons for the delay has been filed. The learned AR further submitted that delay in filing of appeal is mainly due to lockdown imposed by the Govt. on account of spread of Covid-19 infections and in view of Hon'ble

Supreme Court suo motu Writ Petition No.3 of 2020, if the period of delay is covered within the period specified in the order of the Apex Court, then same needs to be condoned in view of specific problem faced by the public on account of Covid-19 pandemic.

3. The learned DR, on the other hand, fairly agreed that delay may be condoned in the interest of justice.

4. Having heard both sides and considered reasons given by the learned AR, we find that the Hon'ble Supreme Court in suo motu Writ Petition No.3 of 2020, has extended limitation applicable to all proceedings in respect of courts and tribunals across the country on account of spread of Covid-19 infections w.e.f. 15.03.2020, till further orders and said general exemption has been extended from time to time. We further noted that delay noticed by the Registry pertains to the period of general exemption provided by the Hon'ble Supreme Court extending limitation period applicable for all proceedings before Courts and Tribunals and thus, considering facts and circumstances of the case and also in the interest of natural justice, we condone delay in filing appeal filed by the assessee.

5. The brief facts of the case are that the assessee is an individual and proprietor of M/s. Deepa Refrigeration engaged in the business of sale and service of refrigerators filed return of income for assessment year 2017-18 on 15.10.2017 admitting total income of Rs.5,34,200/-. The case has been taken up for scrutiny to verify cash deposits and cash withdrawal from bank accounts and assessment has been completed u/s.143(3) of the Act, on 05.12.2019 and determined total income of Rs.21,87,470/- by making additions towards unexplained cash deposits in Canara Bank u/s.69 of the Income Tax Act, 1961, amounting to Rs.15,12,700/-. The assessee carried the matter in appeal before the first appellate authority. Before the learned CIT(A), the assessee submitted certain details and explained that out of additions made by the Assessing Officer of Rs.15,12,700/-, a sum of Rs.3,61,200/- was deposited out of new currency notes of Rs.2000/- & Rs.100/- and thus, the Assessing Officer has erred in making addition towards cash deposits u/s.69 of the Act. The learned CIT(A), after considering relevant facts of the assessee and also taken note of certificate issued by Canara Bank dated 31.12.2019 allowed relief to the extent of Rs.3,61,200/- and balance amount of Rs.11,51,500/-

has been confirmed for the reason that the assessee could not adduce any evidence to take different view. Aggrieved by the learned CIT(A) order, the assessee is in appeal before us.

6. We have heard both the parties, perused material available on record and gone through orders of the authorities below. At the time of hearing, the learned A.R for the assessee submitted that the CIT(A) has disposed off appeal filed by the assessee without giving reasonable opportunity of hearing to explain her case and thus, appeal may be set aside to the file of the CIT(A) to give one more opportunity of hearing to the assessee.

7. The learned DR present for the Revenue, although supported order passed by the CIT(A), however, fairly agreed to set aside the issue to the file of the CIT(A).

8. Therefore, considering facts & circumstances of the case and also taking note of insufficient opportunity of hearing given by the learned CIT(A) to the assessee to justify her case, we deem it appropriate to set aside the appeal to the file of the learned CIT(A) for reconsideration of the issue. Hence, we set aside the appeal and restore the issue back to the file of the

learned CIT(A) and direct the CIT(A) to reconsider the issue by giving reasonable opportunity of hearing to the assessee.

9. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 11th May, 2022

Sd/-
(महावीर सिंह)
(Mahavir Singh)
उपाध्यक्ष/ Vice-President
चेन्नई/Chennai,

Sd/
(जी. मंजुनाथ)
(G. Manjunatha)
लेखा सदस्य / Accountant Member

दिनांक/Dated 11th May, 2022
DS

आदेश की प्रतिलिपि अद्येषित/Copy to:

1. Appellant
2. Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.