

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.:53/CHNY/2021

M/s. Arulmigu Sri
Kutralanathar Swami
Thirukovil Trust,
2/100, VOC Street, Ottapidaram,
Tuticorin – 628 401.

The CIT(Exemption),
v. Chennai – 34.

PAN: AAHTA 4920G

(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

: 19.05.2022

घोषणा की तारीख/Date of Pronouncement

: 25.05.2022

आदेश /O R D E R

PER MAHAVIR SINGH, VP:

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Exemption) rejecting application u/s. 12AA(1)(b)(ii) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 19.09.2020.

2. At the outset, it is noticed that the appeal filed by assessee is barred by limitation by 113 days. The assessee has filed condonation petition stating that the order of CIT(Exemption) dated 19.09.2020, was received by assessee on 19.09.2020 and appeal should have been filed on or before 18.11.2020 but the appeal was filed only on 11.03.2021. It means that there is a delay of 113 days. It was stated that this delay is due to pandemic period of Covid-19 and subsequent events. We noted that 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. Since the Hon'ble Supreme Court has condoned the delay during the said period, respectfully following the same we condone the delay and admit the appeal.

3. None is present from assessee's side however Revenue is represented by Id. Senior DR.

4. We have heard Id. Senior DR and gone through the order of CIT(Exemption) and noted that the order of CIT(Exemption) is ex-

parte and it is a non-speaking order. The relevant finding of CIT(Exemption) in para 5 reads as under:-

“5. It is clear from the above that the assessee has not fulfilled the statutory conditions prescribed to qualify for registration u/s 12AA in spite of reasonable opportunity given. Therefore, the application for registration u/s.12AA is rejected.”

Apart from the above finding, the CIT(Exemption) has not adjudicated on any factual situation and the application was rejected only on account of non-prosecution. We noted that the assessee should have been provided reasonable opportunity of being heard by CIT(Exemption). In the absence of the same, we set aside the order of CIT(Exemption) and remand the matter back to his file for fresh adjudication.

5. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 25th 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 25th May, 2022

RSR

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. |