

xआयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA No.1620/Chny/2019
(निर्धारण वर्ष / Assessment Year: 2012-13)

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आयकर अपील सं./ ITA No.1621/Chny/2019
(निर्धारण वर्ष / Assessment Year: 2013-14)

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आयकर अपील सं./ ITA No.1622/Chny/2019
(निर्धारण वर्ष / Assessment Year: 2014-15)

M/s. Suguna Foods Pvt. Ltd. 5 th Floor, Jaya Enclave 1057, Avinashi Road, Coimbatore – 641 018.	बनाम/ Vs.	DCIT, Corporate Circle-1, Coimbatore.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AADCS-0655-F		
(□ पीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri K.R. Vasudevan (Advocate) & Shri V. Balaji (C.A) - Ld. ARs
प्रत्यर्थी की ओरसे/Respondent by	:	Shri Guru Bashyam (CIT) –Ld. DR
सुनवाई की तारीख/Date of Hearing	:	09-06-2022
घोषणा की तारीख /Date of Pronouncement	:	09-06-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeals by assessee for Assessment Years (AY) 2012-13 to 2014-15 arises out of separate orders. First, we take up the appeal for AY 2012-13 which arises out of the orders of learned Commissioner of Income Tax (Appeals)-1, Coimbatore [CIT(A)] dated

14.08.2018 in the matter of assessment framed by Ld. Assessing Officer u/s 143(3) on 30.03.2016. The sole grievance of the assessee is that subsidy as received by the assessee to generate employment opportunities should not be reduced from the cost of fixed assets while computing the depreciation.

2. The Registry has noted a delay of 217 days in the appeals, the condonation of which has been sought by the assessee on the strength of affidavit of the assessee. The Ld. CIT-DR vehemently opposed the condonation of delay on the ground that the assessee did not press this ground before Ld. CIT(A) and there was no sufficient cause to condone the delay. The facts as narrated in the affidavit are that for AY 2012-13, the assessee received capital subsidy of Rs.1174.23 Lacs which was treated as capital receipts. The Ld. AO, reduced the capital subsidy from the cost of assets thereby reducing the claim of depreciation. The assessee preferred further appeal against the same and this ground was dismissed by Ld. CIT(A) as not pressed. This order was passed on 21.08.2018. However, similar claim was allowed by Ld. AO in assessment proceedings of AYs 2013-14 and 2014-15 u/s 143(3) order dated 29.12.2016. Post disposal of appeal for AY 2012-13, revisionary proceedings u/s 263 were invoked by Ld. Pr. CIT, Coimbatore vide order dated 21.03.2019 for AYs 2013-14 and 2014-15 to redo the assessment by reducing the subsidy from the cost of asset thereby reducing the claim of depreciation. The revisionary proceedings were invoked since this ground was not pressed by the assessee during appellate proceedings of AY 2012-13. The same triggered the assessee to file the appeal before Tribunal on this issue for AY 2012-13 also and consequently, there was delay in filing the

appeal. The appeal has ultimately been filed on 23.05.2019 as against stipulated date of 20.10.2018. In the above background, Ld. AR submitted that the delay was for bona-fide reasons and there was sufficient cause for late filing of the appeal.

3. After due consideration of rival submissions and in the background of aforesaid factual matrix, the bench formed an opinion that the assessee was able to establish sufficient cause for late filing of the appeal. Another factor is that this issue spans over subsequent two years also and therefore, for the sake of consistency, the same has to be adjudicated on merits only. Considering the same, the delay is condoned and the appeal is admitted for adjudication.

4. Since Ld. CIT(A) has dismissed this ground as not pressed and has not rendered any decision on merits, the issue is restored back to the file of Ld.CIT(A) for fresh adjudication on merits after affording reasonable opportunity of hearing to the assessee. The appeal stand allowed for statistical purposes.

5. The appeals for AYs 2013-14 and 2014-15 assails the validity of revisional jurisdiction of appropriate authority u/s 263. The Ld. AR submitted that the assessee is withdrawing these two appeals and filed a letter from the assessee to that effect. Considering the same, both these appeals stand dismissed as withdrawn.

6. The appeal ITA No.1620/Chny/2019 stand allowed for statistical purposes whereas the other two appeals stand dismissed as withdrawn.

Order pronounced on 09th June, 2022.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 09-06-2022
EDN/-

आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded 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