

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' 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

आयकर अपील सं./ITA No.: 1941/CHNY/2019

निर्धारण वर्ष /Assessment Year: 2013-14

M/s. Fourrts (India)
Laboratories Pvt. Ltd.,
Plot No.1, Annai Indira Nagar,
Okkiyam, Thoraipakkam,
Chennai – 600 097.

The ACIT (OSD),
v. Corporate Circle-2,
Chennai - 34.

PAN: AAACF 0467F

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: None

प्रत्यर्थी की ओर से/Respondent by

: Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 21.06.2022

घोषणा की तारीख/Date of Pronouncement

: 21.06.2022

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 (Appeals)-5, Chennai in ITA No.263/TR/CIT(A)-5/2016-17 dated 03.04.2019. The assessment was framed by the ACIT (OSD), Corporate Range-2, Chennai u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') for the assessment year 2013-14 vide order dated 25.03.2016.

2. At the time of hearing, it is noticed that on last many occasions none is present from assessee's side and on going through the grounds raised by assessee, we noted that the CIT(A) has refused to condone the delay of 188 days and also deliberated the issue on merits without confronting to the assessee. For this, assessee has raised 11 grounds contending various facets of arguments.

3. The Id. senior DR was specifically asked as to why once CIT(A) has not condoned the delay and not admitted the appeal, he has adjudicated the issues on merits also and dismissed the appeal of assessee. The CIT(A) in para 4 in the result has mentioned as under:

“4. In the result, the appeal is dismissed on the ground of delay as well as merits”

When the above facts were confronted to Id. senior DR, he could not controvert the above facts that the appeal is dismissed in limine by not condoning the delay and also dismissed on merits.

4. We noted that the assessee has filed affidavit stating the reasons along with application for condonation of delay and delay is for 188 days. We noted that the CIT(A) has not all discussed the facts regarding delay mentioned in the affidavit. We are of the view

that once the CIT(A) dismissed the appeal as un-admitted on account of barred by limitation, the CIT(A) cannot decide the issues on merits and that also without providing opportunity of being heard to the assessee. Accordingly, we set aside the order of CIT(A) and remand the matter back to his file for fresh adjudication, first on the issue of condonation by passing a speaking order. In case, he condones the delay and admit the appeal, he will adjudicate the issue on merits. Therefore, the order of CIT(A) is set aside and appeal of assessee is allowed for statistical purposes.

5. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 21st June, 2022 at Chennai.

Sd/-

(जी. मंजुनाथ)

(G. MANJUNATHA)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 21st June, 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. |