

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH, CHENNAI
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER
AND SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

आयकरअपीलसं./I.T.A.No.3379 /Chny/2019

(निर्धारणवर्ष / Assessment Year: 2013-14)

Mr. T.K.Krishnaswamy, C/o.M/s.S.Sivaraman,Advocates 4/9, Brindhavan Towers, Block-1 4 th floor, Ashok Pillar Road, K.K.Nagar,Chennai-600 078.	Vs	Income Tax Officer, Non-Corporate Ward-1(4) Chennai.
PAN: AHSPK 3783H		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

आयकरअपीलसं./I.T.A.No.3380 /Chny/2019 & 569/Chny/2020

(निर्धारणवर्ष / Assessment Year: 2013-14)

Mrs.T.K. Rajalakshmi C/o.M/s.S.Sivaraman,Advocates 4/9, Brindhavan Towers, Block-1 4 th floor, Ashok Pillar Road, K.K.Nagar,Chennai-600 078.	Vs	Deputy Commissioner of Income Tax, Non-Corporate Circle-2 Chennai.
PAN: ADQPR 6875H		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. Philip George, Advocate
प्रत्यर्थीकीओरसे/Respondent by	:	Mr. P.Sajit Kumar, JCIT

सुनवाईकीतारीख/Date of hearing	:	11.07.2022
घोषणाकीतारीख /Date of Pronouncement	:	13.07.2022

आदेश / ORDER

PER G. MANJUNATHA, AM:

These three appeals filed by different assesseees are directed against common order passed by the learned Commissioner of Income Tax (Appeals)-2, Chennai, all dated 29.08.2019 and pertain to assessment year 2013-14. Since, facts are identical and issues are common, for the sake of

convenience, these appeals were heard together and are being disposed off, by this consolidated order.

2. At the time of hearing, learned AR for the assessee submitted that the appeals filed by the assessee are time barred by limitation of 38 days (in ITA No.3379 & 3380/Chny/2019) and 131 days in ITA No.569/Chny/2020 for which necessary petition for condonation of delay along with affidavit explaining the reasons for the delay has been filed. The AR further submitted that the assessee could not file appeals within the time allowed under the Act, due to recurring illness of his mother, who also filed another appeal caused delay of 38 days. The delay in filing appeals is neither intentional nor willful but for the unavoidable reasons, therefore, delay may be condoned in the interest of advancement of substantial justice.

3. The learned DR, on the other hand, strongly opposing condonation of delay petition filed by the assessee submitted that the reasons given by the assessee do not come within the ambit of reasonable and bonafide reasons, which can be considered for condonation of delay.

4. Having heard both sides and considered the petition filed by the assessee for condonation of delay, we are of the considered view that reasons given by the assesseees for not filing the appeals within the time allowed under the Act comes under reasonable cause as provided under the Act for condonation of delay and hence, delay in filing of appeals is condoned and appeals filed by the assesseees are admitted for adjudication.

2. Brief facts of the case are that the assessee has filed return of income for the assessment year 2013-14 declaring total income of Rs.18,26,750/-. The case has been reopened u/s.147 of the Act for the reasons recorded, as per which income chargeable to tax had been escaped assessment and consequently, notice u/s.148 dated 28.06.2016 was issued to the assessee. In response to notice, the assessee has filed return of income. The case has been taken up for scrutiny and assessment has been completed u/s.143(3) r.w.s. 147 of the Act dated 16.11.2016 and determined total income at Rs.12,29,73,340/-. The assessee carried the matter in appeal before the first appellate authority, but neither appeared nor

filed any details, despite ten opportunity of hearing was provided to the assessee, which is evident from para 4 of the learned CIT(A) order. Therefore, the learned CIT(A) left with no choice has disposed off appeal filed by the assessee ex-parte and confirmed additions made by the Assessing Officer.

3. We have heard both the sides and considered relevant materials on record. At the time of hearing, the learned counsel for the assessee has submitted that the learned CIT(A) has passed ex-parte order for non-appearance of the assessee, without disposing off the issues involved in appeal on merits, because the assessee could not furnish any evidence to justify his/her case. Therefore, the appeals may be set aside to the file of the learned CIT(A) to give one more opportunity of hearing to the assessees.

4. The learned DR, present for the Revenue, on the other hand, supporting order of the learned CIT(A) fairly admitted that the learned CIT(A) has not disposed off the appeals on merits and thus, the Bench may take suitable view to decide the issue in accordance with law.

5. Having heard both the sides and considered relevant material on record, we find that although, the learned CIT(A) has given number of opportunities to the assessee, but the assessee neither appeared nor filed any details. On many occasions, the assessee has not appeared before the learned CIT(A) and in some occasions although, the assessee has sought adjournments, but finally could not file necessary details in support of his appeal filed against order of the Assessing Officer. Therefore, the learned CIT(A) disposed off appeal filed for non-prosecution. It is well settled principles of law by decisions of various courts that no appeal should be decided unheard the assessee. Even though, the assessee does not appear before the authorities, but appellate authorities are required to dispose off the appeal on merits on the basis of materials available on record. In this case, the learned CIT(A) has disposed off appeal filed by the assessee on technical grounds without considering issues involved on merits. Therefore, we are of the considered view that the issue needs to go back to the file of the learned CIT(A) to give one more opportunity of hearing to the assessee. Hence, we set

aside all three appeals to the file of learned CIT(A) for reconsideration of issues involved in the appeals filed by the assesseees on merits, after giving reasonable opportunity of hearing to the assesseees. Needless to say, the assessee shall appear before the first appellate authority without seeking adjournment.

6. In the result, appeals filed by the assesseees are treated as allowed for statistical purposes.

Order pronounced in the open court on 13th July, 2022

Sd/-
(वी. दुर्गा राव)
(V. Durga Rao)
न्यायिक सदस्य /Judicial Member

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

चेन्नई/Chennai,

दिनांक/Dated 13th July, 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.