

आयकर 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.494/Chny/2022
(निर्धारण वर्ष / Assessment Year: 2014-15)

S172 Samudram Primary Agricultural Co-op. Credit Society, Samudram Post, Edapadi Taluk, Salem District-636 306.	बनाम/ Vs.	ITO, Ward-1(6), Salem.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AAEAS-7781-B		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	None
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri Ravindra T. Mishra (JCIT) – Ld. DR
सुनवाई की तारीख/ Date of Hearing	:	21-07-2022
घोषणा की तारीख / Date of Pronouncement	:	21-07-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2014-15 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 19-05-2022 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 30-11-2016. Upon perusal of impugned order, it could be seen that the appeal has been dismissed by Ld. CIT(A) for want of condonation of inordinate delay of 2920 days.

2. At the time of hearing, none appeared for the assessee. However, the assessee has filed written submissions. The Ld. Sr. D.R pleaded for dismissal of the appeal. Having heard rival submissions, our adjudication would be as under.

3. In the written submissions, the Ld. AR for assessee has sought to explain the delay as under: -

The issue to be decided, in my considered view, is whether the First Appellate Authority is correct in law and in the facts and circumstances of the case in not condoning the delay by not duly considering the explanations/reasons for the delay, supported by an affidavit from the Chartered Accountant due to personal reasons?

Before proceeding, it is just and fair to correctly mention the period of delay in filing the appeal before the First Appellate Authority on 13/01/2021, when the order u/s. 143(3) dt.30/11/2016 was received on the same date.

After consideration of 30 days, the appeal before the First Appellate Authority should have been filed on or before 30/12/2016; however, it was filed on 13/01/2021, resulting in a delay of 1469 days.

Hence, taking the delay as 2920 days by the First Appellate Authority in the Appeal Order dt. 19/05/2022 is not correct.

As the appellant was prosecuting other remedies, details of which are given under, the delay has occasioned.

Time taken, while prosecuting remedy u/s. 154 before ITO (From 11/06/2017 to 20/10/2017)	- 132 days
Time taken - while prosecuting remedy before CIT(A) - u/s.154 (From 21/10/2017 to 21/02/2019)	- 489 days
Time taken, while prosecuting remedy before ITAT - u/s.250 (From 09/05/2019 to 18/12/2020)	- 588 days
Time taken from the above till date of filing of appeal before CIT(A) (from 19/12/2020 to 13/01/2021) - 26 days	
Delay due to reasons explained in the affidavit	<u>- 269 days</u>
TOTAL No. of days	<u>- 1469 days</u>

Thus, the delay is not due to negligence and there is no want of bona fides imputable to the appellant.

In view of the above, it is respectfully submitted that the reasons for the delay be considered thereby rendering justice.

Upon perusal, it could be seen that the assessee was pursuing alternative remedy u/s 154 which was agitated up-to second appellate

level. Thereafter, the assessee preferred appeal against the original assessment order. It could also be seen that the delay is for 1469 days and not 2920 as noted by Ld. CIT(A).

4. Under these circumstances, we are of the considered opinion that the delay deserves to be condoned and the matter was to be adjudicated on merits by Ld. CIT(A). Therefore, we direct Ld. CIT(A) to admit the appeal and adjudicate the same on merits. However, this concession would come at cost of Rs.10,000/- which shall be deposited by the assessee to the Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras within one month from the date of receipt of this order. The proof of the same shall be furnished to Ld. CIT(A) who shall proceed with the appeal for adjudication on merits.

5. The appeal stand allowed for statistical purposes.

Order pronounced on 21st July, 2022.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

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

चेन्नई / Chennai; दिनांक / Dated : 21-07-2022
EDN/-

आदेश की प्रतिलिपि अग्रेषित/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