

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No. 1245/Chny/2019
निर्धारण वर्ष/Assessment Year:2011-12

Shri C. Vadivelu,
9-Rabindranath Tagore Salai,
Block 19, Neyveli 607 803.

The Deputy Commissioner of
Income Tax,
Cuddalore.

[PAN:ADEPV7208E]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri D. Anand, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri V. Nandakumar, JCIT
सुनवाई की तारीख/ Date of hearing : 12.07.2022
घोषणा की तारीख /Date of Pronouncement : 12.08.2022

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), Puducherry, dated 06.09.2016 relevant to the assessment year 2011-12.

2. The appeal filed by the assessee is delayed by 890 days in filing the appeal before the Tribunal. By filing a petition in support of an affidavit along with medical certificate for condonation of delay in filing the appeal,

the Id. Counsel for the assessee has prayed for condoning the delay and admitting the appeal for adjudication.

3. On the other hand, the Id. DR has submitted that the medical certificate issued for the treatment of more than 2 years and eight months appears to be for the commonly prevailing ailment, which cannot be accepted without proper medical history with details of the treatment.

4. We have heard both the sides, perused the affidavit as well as medical certificate issued by the registered medical practitioner. The contents of the affidavit are reproduced as under:

2. *I have filed the above appeal against the order of the Commissioner of Income (Appeals)-5, Chennai dated 06.09.2016. The said appellate order was received by me on 15.09.2016. In normal course the appeal should have been filed by 15.11.2016 but however the appeal was filed on 24.04.2019 with a delay of 890 days.*

3. *I submit that order of the learned Commissioner of Income-Tax, (Appeals)-5, Chennai was passed on 06.09.2016 and the same was received by me on 15.09.2016. I submit that during November 2016 my health condition started deteriorating due High Blood Pressure, and I was under constant medical treatment. Due to my health problems, I was unable to follow my tax problems. I recovered only in the month of March-April 2019. Due to the aforesaid reasons I could meet my auditor only during the month of April 2019 and give them instruction to file the present appeal before the Hon'ble Tribunal.*

My auditor's office thereafter got the appeal papers ready and the appeal was filed immediately on 16.04.2019 but with a delay of 890 days. I submit that the said appeal ought to have been filed by 15.11.2016 but however the appeal was

filed on 24.04.2019 with a delay of 890 days. The delay in filing the appeal is neither willful nor wanton.

4. *I humbly submit that I was unable to file the appeal papers in due time despite best of my efforts but however filed the same with a delay of 890 days. The delay is neither willful nor wanton but due to the aforesaid circumstance. Hence there was a delay of 890 days in filing the appeal.*
5. *It is therefore prayed that the Hon'ble Tribunal may be pleased to condone the delay of 890 days in filing the appeal before the Income Tax Appellate Tribunal and render justice.*

4.1 The contents of the medical certificate issued by the registered medical practitioner are reproduced hereunder:

Dated 31.12.2019

This is to certify that C. Vadivelu, S/o Chinnadurai aged about 55 years residing at D-9, R.N. Tagore Salai, Block 13, Neyveli suffered from Hypertension, Hyperglycaemia & Rheumatic Joint Pain. He was under my treatment from 01.11.2016 to 31.12.2019. He was advised to take complete rest in the above mentioned period.

*Sd/-
Dr. J. Sri Rama Rao
with seal*

4.2 Other than the above medical certificate, no details of treatment given, lab test taken, etc. are produced in support of the medical certificate. In the absence of proper and complete medical history for the treatment taken by the assessee, we are of the considered opinion that the condonation petition filed by the assessee is liable to be rejected and accordingly, rejected the petition for condonation of huge delay of 890 days in filing the appeal. Since the condonation petition filed by the

assessee is rejected, the belated appeal filed by the assessee is not maintainable. Accordingly, the appeal filed by the assessee is dismissed.

5. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on the 12th August, 2022 in Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 12.08.2022
Vm/-

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.