

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'A' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 419/CHNY/2020

निर्धारण वर्ष /Assessment Year: 2008-09

**Altius Securities Trading Pvt.  
Ltd.,**  
New No.11, Old No.5,  
Bishop Wallers Avenue (West),  
Mylapore, Chennai – 600 004.

**The DCIT,**  
vs. Company Circle 1(1),  
Chennai.

**PAN: AACCA 4561D**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: None

प्रत्यर्थी की ओर से/Respondent by

: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 03.08.2022

घोषणा की तारीख/Date of Pronouncement

: 03.08.2022

**आदेश /O R D E R**

**PER MAHAVIR SINGH, VICE PRESIDENT:**

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-1, Chennai in ITA No.215/CIT(A)-1/2013-14 dated 13.12.2019. The assessment was framed by the DCIT, Company Circle – 1(1), Chennai for the

assessment year 2008-09 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 26.11.2010.

2. At the outset, it is noticed that the appeal decided by CIT(A) is ex-parte and the appeal was dismissed as un-admitted due to the fact that the assessee has not filed condonation petition. The CIT(A) observed as under:-

“Condonation of Delay:

The assessment order u/s.143(3) of the Act for the A.Y. 2008-09 was dated 26/11/2010. The Notice of demand u/s.156 of the Act was dated 26/11/2010. As per section 249(2), the appeal should be presented within 30 days of service of notice of demand relating to the assessment. The appellant filed Form No.35 along with Statement of Facts and Grounds of Appeal on 31/1/2011. Hence, there has been a delay of more than one month in filing the appeal before the CIT(A) u/s.246A of the Act. It was noticed that the appellant has not filed a petition for condonation of delay. Hence, the appeal is treated as invalid.”

It seems that the delay was of one month or so and the assessee was not allowed opportunity to file condonation petition before CIT(A). When these facts were confronted to Id. Senior DR, he could not controvert the same. None is present from assessee's side despite service of notice.

3. After hearing Id. Senior DR and going through the facts of the case, we are of the view that the assessee should be allowed one more opportunity to file condonation petition before CIT(A) and

after that the CIT(A) will first decide on the issue of condonation of delay and in case he admits the appeal, he will adjudicate the issue on merits also. Therefore, the issue is set aside to the file of the CIT(A) and the appeal of the assessee is allowed for statistical purposes.

4. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 3<sup>rd</sup> August, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 3<sup>rd</sup> August, 2022

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT    | 5. विभागीय प्रतिनिधि/DR  | 6. गार्ड फाईल/GF.            |