

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

श्री मनोज कुमार अग्रवाल, लेखा सदस्यके श्री संजय सरमा, न्यायिक सदस्य समक्ष
**BEFORE SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND SHRI SONJOY SARMA, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A No.:256/CHNY/2021
निर्धारण वर्ष/ **Assessment Year 2015 - 2016**

Shri. N. Muthukumaar,
VB 108 Sreevatsa Gardens,
Mettupalayam Road,
Thudiyalur, Coimbatore – 641 034.

The Principal Commissioner of
Income Tax – 1,
Coimbatore

PAN : ADZPM 4567A

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थीकीओरसे/Appellant by
प्रत्यर्थीकीओरसे/Respondent by

: Mr. Shrenik Chordia, C.A.
: Mr. ARV Sreenivasan, Addl. CIT

सुनवाई की तारीख/Date of Hearing : 16.08.2022
घोषणा की तारीख/Date of Pronouncement : 18.08.2022

आदेश /ORDER

PER SONJOY SARMA, JM:

This appeal by the Assessee is arising out of the order of the Principal Commissioner of Income Tax (Appeals), Coimbatore – 1 vide order No.ITBA/REV/F/REV5/2020-21/1031819395(1); dated 27.03.2021. The assessment was framed by the Assistant Commissioner of Income Tax, Non-Corporate Circle-4, Coimbatore for the Assessment

Year 2015 – 2016 u/s.143(3) of the Income Tax Act, 1961 (hereinafter “the Act”), vide order dated 22.09.2017.

2. The Assessee has raised the following Grounds that are as under:

- [1] The order passed by the learned Principal Commissioner of Income Tax is against the law and facts of the case.
- [2] The learned PCIT erred in passing an order u/s.263 of the Income Tax Act, 1961 without considering the various submissions and explanations made at the time of assessment.
- [3] The learned PCIT ought to have considered the fact that the Section 80IA of the Income Tax Act, 1961 is a beneficial provision which is to be interpreted liberally as well as favourable to the taxpayer.
- [4] The learned PCIT ought to have accepted the facts and case laws which have been submitted in the reply filed on 05.03.2021.
- [5] The learned PCIT ought to have considered the fact in case of two contradicting views, then the view favourable to the Appellant to be implemented.
- [6] The learned PCIT ought to have considered that the Assessing Officer has verified every aspect before passing the final order.
- [7] The learned PCIT ought to have considered that the set off of unabsorbed depreciation does not have any restrictions and the taxpayer is given free hand to set off against any source of income.

3. At the outset, it is noticed that the appeal of the Assessee is time barred by limitation by 51 days and

Assessee has filed a condonation petition supported by an affidavit. The delay in filing the appeal was due to the Assessee's legal consultant advising the Assessee to file an appeal before the Hon'ble Tribunal for claiming relief but however it was noticed that the appeal has already barred limitation and that the period falling under limitation is during the outbreak of 'Covid-19' pandemic. Hence, the Hon'ble Bench took into cognizance the Order of the Hon'ble Supreme Court the "Suo Moto WP 03/2020 dated 20.03.2020 while considering the condonation of delay. It is a fact that 'Covid-19' pandemic was prevalent during the period and in term of the directions issued by the Hon'ble Supreme Court in Miscellaneous Application No.21/2022 in Suo Motu Writ Petition No.3 of 2020, we condone the delay of 51 days and admit the appeal for adjudication on merits.

4. At the time of hearing, the learned Authorized Representative for the Assessee submitted before the Bench that the Assessee intends to withdraw the appeal and in this regard has filed an application dated 16.08.2022

seeking withdrawal of this appeal. The same is placed on record. On the other hand, the learned Senior Departmental Representative has not raised any objection in this regard.

5. After hearing the rival submissions of both the parties and the prayer made by the learned Counsel for the Assessee and on considering the request, we permit the withdrawal of the appeal by the Assessee and accordingly the appeal of the Assessee is dismissed as withdrawn.

6. In the result, the appeal of the Assessee in I.T.A No.:256/CHNY/2021 is dismissed as withdrawn.

Order pronounced in the court on 18th August, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(संजय सरमा)

(SONJOY SARMA)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 18th August, 2022

IA, Sr. PS

आदेशकीप्रतिलिपिअग्रेषित/Copy to: 1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF