

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.: 208/CHNY/2022

निर्धारण वर्ष /Assessment Year: 2015-16

Shri Ramanathan Rethinam,
No.20, Kamaraj Street,
Chakravarthi Nagar,
Ayanavaram,
Chennai – 600 023.

The Income Tax Officer,
vs. Non-Corporate Ward 10(5),
Chennai.

PAN: ADZPR 1984N

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri D. Anand, Advocate
: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 30.08.2022

घोषणा की तारीख/Date of Pronouncement

: 30.08.2022

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)-12, Chennai in ITA No.56/CIT(A)-12/17-18 dated 18.06.2019. The assessment was framed by the ITO, Non-Corporate Ward 10(5), Chennai for the

assessment year 2015-16 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 11.12.2017.

2. At the outset it is noticed that this appeal filed by assessee is time barred by 949 days and assessee has filed condonation petition accompanying affidavit praying for condonation of delay. The assessee's contention was that the order of CIT(A) dated 18.06.2019 was received by the assessee on 25.06.2019 and the last date for filing of appeal was 24.08.2019 but actually appeal was filed only on 30.03.2022 with a delay of 949 days. The assessee stated the reasons that during August, 2019, assessee was busy finalizing accounts for filing of return of income for assessment year 2019-20. While filing the return, the impugned assessment order and appellate order got mixed up with other papers and the same could not be traced. After that, Covid-19 started and the family members were affected by Covid-19. The orders could be traced only during March, 2022. Hence, appeal was actually filed on 30.03.2022 with a delay of 949 days and the delay in filing of appeal is neither willful nor wanton. When this was pointed out to Id. Senior DR, he opposed for the condonation of unusual delay.

2.1 After hearing rival contentions and going through the reasons stated, it seems that the reasons does not convince a normal man but delay of 949 days pertains mostly to Covid-19 period. The delay was actually from 24.08.2019 to 25.03.2022 that means the effective delay is only for 212 days. Seeing the number of days delay, we are inclined to condone the delay subject to a cost of Rs.10,000/- to Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras. In term of the above, the delay is condoned.

3. The first issue in this appeal of assessee is as regards to the order of CIT(A) dismissing the appeal for non-appearance in violation of principles of natural justice and the CIT(A) dismissed simpliciter for non-appearance and no adjudication on merits. The Id.counsel for the assessee took us through the finding recorded by CIT(A) in para 6.3 & 6.4 as under:

6.3 The repeated non-appearance of the appellant indicates that he is not interested in pursuing the appeal. During the appellate proceedings no written submissions have been filed.

6.4 In the above circumstances, the addition made by the Assessing Officer for the AY.2015-16 is confirmed and the grounds of appeal filed by the appellant for the assessment year under consideration is dismissed.

4. It seems that the issue to be adjudicated is as regards to the addition u/s.69 of the Act of Rs.2,85,030/- being unexplained

investment of purchases and addition of Rs.14,72,190/- being unexplained expenditure claimed on account of payment of customs duty. But, in any case, the facts are not at all discussed by the CIT(A) and hence, we are setting aside the order of CIT(A) because it is an order passed for non-prosecution. Hence, we set aside the order of CIT(A) and remand the matter back to his file for fresh adjudication after allowing reasonable opportunity of being heard to the assessee.

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

Order pronounced in the open court on 30th 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 30th 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. |