

आयकर अपीलिय 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.: 904/CHNY/2020

**Kinchitkaram Dharma
Samasthapanam,**
No.6, Bheenasena Garden
Street, Mylapore,
Chennai – 600 004.

The CIT (Exemptions),
vs. Chennai – 34.

PAN: AADTK 7216R

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri D. Anand, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri Guru Bashyam, CIT

सुनवाई की तारीख/Date of Hearing

: 28.09.2022

घोषणा की तारीख/Date of Pronouncement

: 28.09.2022

आदेश / O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order u/s.12AA(1)(b)(ii) of the Income Tax Act, 1961 (hereinafter the 'Act') rejecting rectification application for registration u/s.12AA of the Act vide order dated 09.09.2019.

2. At the outset it is noticed that this appeal is barred by limitation by 364 days. The facts are that the order of CIT(Exemptions) is dated

09.09.2019 and assessee in Form No.36 has noted the date of communication of the assessee as 09.09.2019. The appeal was filed before Tribunal on 06.11.2020 and thereby there is a delay in filing of appeal by 364 days. The Id.counsel for the assessee stated that the order of CIT(Exemptions) was sent by the Department through e-mail on the same date and this, the assessee was not aware even the e-mail address furnished for correspondence purpose was that of the ex-employee of the trust, who demitted office on 17.05.2019 and therefore the assessee was not aware of the proceedings taken against him. He stated that when a physical notice was received u/s.143(2) dated 28.09.2020, he immediately checked the portal of Income-tax Department and came to know about the order passed by CIT(Exemption) dated 09.09.2019. Then the assessee got the papers ready and filed appeal before the Tribunal only on 06.11.2020 with condonation of delay application. Therefore, according to Id.counsel, the cause is reasonable and even 8 months are falling under the exempted period by the Hon'ble Supreme Court in view of Covid-19 pandemic, which was started from 25.03.2020. Hence, practically there is a delay of almost 80 days. Going by the reasons, we are of the view that the assessee has reasonable cause and we accordingly condone the delay and admit the appeal.

3. The Id.counsel for the assessee drew our attention to the order passed by CIT(Exemption) which is ex-parte and none of the documents or on merits, the document submitted along with Form No.10A was considered. On this, the Id.Senior DR could not state anything.

4. After hearing both the sides and going through the facts, we set aside the order of CIT(Exemptions) and remand the matter back to him for fresh adjudication with a direction that he will allow reasonable opportunity of being heard to the assessee and will decide the issues according to law.

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

Order pronounced in the open court on 28th September, 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 28th September, 2022

RSR

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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|------------------------|--------------------------|-----------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकरआयुक्त (अपील)/CIT(A) |
| 4. आयकरआयुक्त /CIT | 5. विभागीयप्रतिनिधि/DR | 6. गार्डफाईल/GF. |