

आयकर अपीलीय 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. 544/Chny/2022
निर्धारण वर्ष/Assessment Year:2015-16

Sadras Venkatarama Chetty Charities, Vs. The Income Tax Officer
No. 1, Audiappa Naicken Street, (Exemptions), Ward – 2,
George Town, Chennai 600 001. Aayakar Bhavan,
Chennai 600 034.

[PAN:AABAS2781C]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri J. Prabhakar, CA
प्रत्यर्थी की ओर से/Respondent by : Shri K.N. Dhandapani, Addl. CIT
सुनवाई की तारीख/ Date of hearing : 27.09.2022
घोषणा की तारीख /Date of Pronouncement : 19.10.2022

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) – National Faceless Appeal Centre [NFAC], New Delhi, dated 18.05.2022 relevant to the assessment year 2015-16.

2. Facts are, in brief, that the assessee Sadras Venkatarama Chetty Charities filed the return of income on 05.11.2015 in ITR-7 declaring an income of NIL after claiming deduction under section 11 of the Income

Tax Act, 1961. As the assessee has filed the ITR declaring the registration under section 12A "N" (No) under relevant column under "other details" in the return uploaded, the Assessing Officer, CPC disallowed the claim of exemption and determined the total income at Rs.14,52,550/- ignoring the sum of Rs.20,57,292/- being set off as application towards charitable purposes against the receipt of Rs.14,52,547/-.

3. Against the order passed by the CPC, the assessee filed an appeal before the Id. CIT(A) with a delay of 682 days and submitted as under:

"6.3 in Form 35, the Appellant submitted that "There is a delay of 682 days in filing the appeal for which reasons are as under: - The appellant filed a revision petition under section 264 before the CIT (exemptions) on 22.3.2018 which is within the time -limits laid out there under to grant relief claimed in the present appeal. The Petition under section 264 was not posted for hearing until 12.3.2019 and the same is getting barred by limitation under the said provision on or before 31.3.2019. The Honourable CIT heard the petition on 13.3.2019, 21.3.2019 and 22.3.2019 and a report of the Assessing Officer is awaited to dispose the revision petition. However, your appellant apprehends that the CIT may not be able to dispose the revision petition within time and hence, perforce compelled to file an appeal to grant the same relief in the revision petition qua the present appeal and thereby avoid tax and penal consequences, especially when there is no contumacious conduct on the appellant part in the filing of Return of Income and claim of relief under Chapter III of the Act. Hence the delay of 682 days may kindly be condoned and the appeal admitted on records for disposal on merits of the case".

By considering the above explanation of the assessee, the Id. CIT(A) was of the opinion that the assessee has failed to give sufficient reason

for the delay in filing the appeal and dismissed the appeal filed by the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal.

5. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below. In this case it was the submissions of the Id. Counsel for the assessee that the assessee is already having 12AA registration and the CPC denied the registration on the ground of non-availability of "N" (No). The 12A registration number was available neither with the assessee nor with the Department. It was submitted that the assessee approached the Id. PCIT under section 264 to get a speedy remedy. However, the Id. PCIT has not disposed the petition filed under section 264 of the Act for want of report from the Assessing Officer. Since the revision petition filed by the assessee was getting time barred, the assessee filed an appeal before the Id. CIT(A). It was further submitted that the earlier years, the Department already granted exemption under section 11 of the Act by considering assessee's 12A registration. Even subsequent assessment year also, the exemption under section 11 of the Act has

been considered by the Department. Only in the assessment year under consideration, the claim of exemption under section 11 of the Act was denied. We find that there is sufficient cause to condone the delay. The Id. CIT(A), without examining the facts and circumstances in proper prospective dismissed the appeal of the assessee without condoning the delay. We find that this is a fit case to condone the delay. In view of the above, the delay is condoned and set aside the order passed by the Id. CIT(A) and remit the matter back to the Assessing Officer to verify as to whether the Assessing Officer has already granted exemption under section 11 of the Act in earlier assessment years and subsequent assessment year(s) and if so, the Assessing Officer is directed to grant exemption under section 11 of the Act to the assessee. We Order accordingly.

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

Order pronounced on the 19th October, 2022 in Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 19.10.2022

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.