

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री वी. दुर्गा राव, माननीय न्यायिक सदस्य एवं
श्री जी. मंजूनाथा, माननीय लेखा सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER AND
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.705/Chny/2022
निर्धारण वर्ष /Assessment Year: 2006-07

Ms.Sasikumari,
No.5, Pillaiyar Koil Street,
Krishna Nagar, Pammal,
Chennai-600 075.

v. The Income Tax Officer,
Business Ward-IV (3),
Chennai.

[PAN: AAIPS 1829 B]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Ms.Lakshmi Pichaimani, CA
प्रत्यर्थी की ओर से /Respondent by	:	Mr.P.Sajit Kumar, JCIT
सुनवाई की तारीख/Date of Hearing	:	22.11.2022
घोषणा की तारीख /Date of Pronouncement	:	30.11.2022

आदेश / ORDER

PER G. MANJUNATHA, AM:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 22.03.2022 and pertains to assessment year 2006-07.

2. The assessee has raised the following grounds of appeal:

1: General:

1: 1 The Assessing Officer ("AO") has erred in assessing the total income of the Appellant at Rs.423,480/- as against the income of Rs.104,344 /- as per the original return of income. The Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi ("CIT(A)") has further erred in confirming the additions made in the impugned Order passed by the AO.

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1: 2 That on the facts and circumstances of the case and in law, the CIT (A) ignored the initial online submission made by the Appellant and no further opportunity of hearing was provided to the Appellant.

1: 3 The Appellant craves leave to add, alter, amend, substitute and / or modify in any manner whatsoever all or any of the foregoing grounds of appeal at or before the hearing of the appeal.

2: 0 Addition of income based on the AIR information;

2: 1 The CIT(A) has erred in confirming the Order passed by the AO on the addition of income of Rs.3,19,135/- to the returned income.

2: 2 The CIT(A) and the AO failed to appreciate the fact that the Appellant did not have a credit card during the impugned year

2: 3 The Appellant submits that considering the facts and circumstances of the case, the stand taken by the CIT(A) is misconceived, erroneous, illegal and bad in law.

2: 4 The Appellant submits that the AO be directed to delete the addition so made and to re-compute her total income and tax liability accordingly.

3. At the outset, we find that there is a delay of 90 days in filing of the appeal before the Tribunal, for which, necessary petition along with affidavit explaining reasons, has been filed. The Ld.Counsel for the assessee referring to petition filed by the assessee submitted that delay in filing of the appeal is neither willful nor to derive any undue benefit, but purely beyond control of the assessee, because, the appeal order passed by the National Faceless Appeal Centre, has been communicated to the assessee through e-mail, which was unnoticed due to some personal reasons. However, subsequently when it comes to notice that the appellate order has been passed, the assessee has taken up proceedings before the Advocate and filed appeal, which caused delay of 90 days. Therefore, appeal may be admitted to render substantial justice.

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3.1 The Ld.DR submitted that reasons given by the assessee does not come under reasonable cause for condonation of delay and thus, appeal filed by the assessee should not be admitted.

3.2 We have heard both the parties and considered the reasons given by the assessee in her affidavit for condonation of delay and after considering relevant reasons, we are of the considered view that the assessee is not going to gain anything by not filing appeal in time, but to put herself in adverse position, if the appeal is not filed before the authorities. Therefore, we are of the considered view that when the assessee has explained the reasons for delay in filing of the appeal and such reasons are bona fide and reasonable, then the appellate authorities are bound to condone the delay for advancement of substantial justice. Therefore, considering the fact that the assessment order passed by the AO is exparte and also reasons given by the assessee are sufficient to condone the delay, we admit the appeal filed by the assessee for adjudication.

4. The brief facts of the case are that the assessee has filed her return of income on 20.07.2008 admitting total income of Rs.1,04,340/- and said return was processed u/s.143(1) of the Act. The case has been selected for scrutiny and during the course of assessment proceedings, the AO has issued two notices on 29.08.2008 & 19.12.2008, but the assessee neither appeared nor explained her case. Therefore, the AO based on AIR information, made additions of Rs.3,19,135/- towards amount spent for payment towards credit card bills amounting to Rs.3,19,135/-. The

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assessee carried the matter in appeal before the First Appellate Authority, and the Ld.CIT(A), NFAC, Delhi, vide their order dated 22.03.2022 rejected the arguments of the assessee and sustained the additions towards credit card bills amounting to Rs.3,19,135/- on the ground that the assessee could not refute the claim of credit card payments done by her. Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before us.

5. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. The AO has made addition towards credit card payments reported in AIR database in the name of the assessee on the ground that the assessee couldn't explain source for credit card expenditure. It was the arguments of the assessee before the Ld.CIT(A) that neither she had credit card in her name nor incurred any expenditure. The assessee further contended that the AO did not give sufficient time to collect necessary information to co-relate the information reported in AIR database and her bank statement to ascertain is there any credit card payments in her bank account. Therefore, requested to give one more opportunity to go before the AO and explain her case. We find that the AO has passed exparte order without giving sufficient opportunity of hearing to the assessee and made addition only on the basis of AIR information. Therefore, we are of the considered view that to give one more opportunity of hearing to the assessee, the issue should go back to the AO for fresh consideration and hence, we set aside the order of the Ld.CIT(A) and restore the issue back to the file of the AO and direct

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the AO to re-do the assessment after giving reasonable opportunity of hearing to the assessee to explain her case in accordance with law.

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

Order pronounced on the 30th day of November, 2022, in Chennai.

Sd/-

(वी. दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/**JUDICIAL MEMBER**

Sd/-

(जी. मंजूनाथा)

(G. MANJUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 30th November, 2022.

TLN

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