

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री महावीर सिंह, माननीय उपाध्यक्ष, एवं
श्री जी. मंजूनाथा, माननीय लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.599/Chny/2022
निर्धारण वर्ष /Assessment Year: 2012-13

Mrs.A.Priya Annapoorani,
No.25, Appasamy Garden,
4th Street, Chennai-600 081.
[PAN: AXFPP 0376 E]

(अपीलार्थी/Appellant)

v. The Tax Recovery Officer-03,
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : None
प्रत्यर्थी की ओर से /Respondent by : Mr.D.Hema Bhupal, JCIT
सुनवाई की तारीख/Date of Hearing : 11.01.2023
घोषणा की तारीख /Date of Pronouncement : 18.01.2023

आदेश / ORDER

PER G. MANJUNATHA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against proclamation of sale issued by the Tax Recovery Officer-03, Chennai, in Form No.ITCP-13 u/s.222(1) of the Income Tax Act, 1961 read with Rule 38 & Rule 52(2) of Second Schedule to the Income Tax Act, 1961.

2. At the outset, we find that there is a delay of 198 days in appeal filed by the assessee. During the course of hearing, when defect was brought to the notice of the learned AR present, he has submitted that delay in filing of appeal is mainly due to lockdown imposed by the Govt. on account of spread of Covid-19 infections and which needs to be excluded for

:: 2 ::

computing limitation in view of judgment of the Hon'ble Supreme Court in Miscellaneous Petition No.21 of 2022 in Suo Motu Writ Petition (C) No.3 of 2020, if the period of delay is covered within the period specified in the order of the Apex Court, then same needs to be condoned in view of specific problem faced by the public on account of Covid-19 pandemic.

2.1 The learned DR, on the other hand, fairly agreed that delay may be condoned in the interest of justice.

2.2 Having heard both sides and considered reasons given by the learned AR, we find that the Hon'ble Supreme Court in Miscellaneous Petition No.21 of 2022 in Suo Motu Writ Petition (C) No.3 of 2020, has extended limitation applicable to all proceedings in respect of Courts and Tribunals across the country on account of spread of Covid-19 infections w.e.f. 15.03.2020, till further orders and said general exemption has been extended from time to time. We further noted that delay noticed by the Registry pertains to the period of general exemption provided by the Hon'ble Supreme Court extending limitation period applicable for all proceedings before Courts and Tribunals and thus, considering facts and circumstances of the case and also in the interest of natural justice, we condone delay in filing appeal filed by the assessee.

3. This appeal is posted for hearing on today. When this appeal was called up for hearing, none appeared for the assessee.

:: 3 ::

4. The Ld.DR submitted that this appeal filed by the assessee is not maintainable, because, said order is not appealable order before the Tribunal. Therefore, appeal filed by the assessee should be dismissed as not maintainable.

5. We have heard the Ld.DR and considered relevant materials available on record and order passed by the Tax Recovery Officer-03, Chennai, u/s.222(1) of the Act and we find that order passed by the Tax Recovery Officer-03, Chennai, u/s.222(1) of the Income Tax Act, 1961 read with Rule 38 & Rule 52(2) of Second Schedule to the Income Tax Act, 1961, is not appealable order before the Tribunal and thus, we dismiss the appeal filed by the assessee as not maintainable.

6. In the result, appeal filed by the assessee is dismissed as not maintainable.

Order pronounced on the 18th day of January, 2023, in Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

Sd/-
(जी. मंजूनाथा)
(G. MANJUNATHA)
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,
दिनांक/Dated: 18th January, 2023.
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