

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'C' 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 अपीलसं./**ITA No.: 629/CHNY/2022**

निर्धारण वर्ष/Assessment Year: 2017-18

**Shri Annappandinadar**  
**Jaganathan,**  
Prop: Jagan Metal Mart,  
Canara Bank Building,  
Modachur,  
Gobichettipalayam – 638 452.

**The ACIT,**  
vs. Circle-2,  
Erode.

**PAN: AEWPJ 8097A**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

&

आयकर अपीलसं./**ITA No.: 630/CHNY/2022**

निर्धारण वर्ष/Assessment Year: 2017-18

**Shri Jaganathan Balasingh,**  
No.8, Mahalakshmi Metal Mart,  
Velappagounder Street,  
ChinnaModachur,  
Gobichettipalayam – 638 452.

**The ACIT,**  
vs. Circle-2,  
Erode.

**PAN: AHHPB 6693E**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri N. Arjun Raj, CA

प्रत्यर्थी की ओर से/Respondent by

: Shri M. Rajan, CIT

सुनवाई की तारीख/Date of Hearing

: 07.02.2023

घोषणा की तारीख/Date of Pronouncement

: 07.02.2023

**आदेश / O R D E R****PER MAHAVIR SINGH, VICE PRESIDENT:**

These two appeals by the assesseees are arising out of different revision orders passed by the Principal Commissioner of Income Tax, Coimbatore -1 in Revision No.PCIT,Coimbatore-1/ Revision 263/100000325500/2022 & PCIT,Coimbatore-1/Revision-263/100000324582/2022 dated 25.03.2022 & 23.03.2022. The assessments were framed by the ACIT, Circle-2, Erode for the assessment year 2017-18, in both the assesseees cases u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide orders of even date 30.12.2019.

2. At the outset it is noticed that these two appeals are barred by limitation by 63 days and 65 days and both the assessee's have filed condonation petition supported by affidavit that Shri Annappandinadar Jagannathan, the assessee and father of Shri Jaganathan Balasingh, the second assessee was having medical issues and was advised complete rest by the Doctor. Both the assessee's have enclosed the medical report. The affidavit states same medical reason, which is common in both the petitions and the relevant reads as under:-

“I state that the father of the Petitioner / Appellant, Mr. Annapandinadar Jaganathan was facing multiple medical issues and was advised to take complete rest by his doctor (The Medical Report is enclosed). I state that the medical ails faced by the father of the Petitioner / Appellant coupled with frequent visits to the Hospital to avail medical treatment had prevented me in approaching the Chartered Accountant / Counsel on record for filing the appeal against the impugned order within the prescribed time period and I state that the bad health unexpectedly faced by my father would constitute reasonable cause for condoning the delay in filing the appeal against the impugned order and for adjudication of the issues on merits.”

From the reasons stated, it seems that cause is reasonable seeing the length of delay. Hence, we condone the delay and admit these two appeals for adjudication.

3. At the outset, the Id.counsel for the assessee drew our attention to para 4 of the revision order, which is common in both the appeals except the date. The Id.counsel drew our attention to the following para 4 in ITA No.629/Chny/2022 in the case of Shri Annappandinadar Jaganathan:-

“4. In response to the above show cause notice, the case was posted for hearing on 17/03/2022. The assessee was given opportunity to appear in person or through their authorized representative or to file written submissions. However, none appeared on the hearing date, nor any written submissions were received. Therefore, the present proceedings initiated u/s.263 of the Act is disposed off based on material available on record.”

Similarly the other assessee in ITA No.630/Chny/2022 in the case of Jaganathan Balasingh was also posted for hearing on 15.03.2022 and finally revision orders were passed on 23.03.2022 and 25.03.2022. The Id.counsel stated that both the assessee's case was posted only one week prior to passing of the revision orders and no substantial opportunities to represent or to file details or to file submissions are allowed by PCIT. Hence according to him, this is violation of principles of natural justice and requested that for proper adjudication of the issue deliberated up by PCIT in regard to excess stock to be added as unexplained credit u/s.68 of the Act is to be explained. Hence, the Id.counsel requested that these two revision orders can be set aside and matter can be remanded back to the file of PCIT for readjudicating the issue after allowing reasonable opportunity of being heard to the assessee. When these facts were confronted to Id. CIT-DR, he could not controvert the above fact situation.

4. After hearing both the sides and going through the facts in both the appeals, we find that the revision order passed by PCIT in both the cases is in clear violation of principles of natural justice as the assessee was not allowed reasonable opportunity of being heard. Hence, we set aside the orders of PCIT passing revision

order and remand the matter back to the file of the PCIT for fresh adjudication. The appeal of both the assessee is allowed for statistical purposes.

5. In the result, the appeals filed by the assessee in ITA Nos.629 & 630/CHNY/2022 are allowed for statistical purposes.

Order pronounced in the open court on 7<sup>th</sup> February, 2023 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 7<sup>th</sup> February, 2023

**RSR**

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.            |