

अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

श्रीमहावीर 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.: 589/CHNY/2022**

निर्धारण वर्ष/Assessment Year: 2016-17

**Zigma Global Environ
Solutions P. Ltd.,**
201,202-161/1,
Brindhavan Orchid,
Indira Gandhi Street,
Thindal (Kel), Selvam Nagar,
Erode – 638 012.

The ACIT,
vs. Circle 1,
Erode.

PAN: AAACZ 8255D

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Tarun, Advocate for
Shri S.Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 19.01.2023

घोषणा की तारीख/Date of Pronouncement

: 17.02.2023

आदेश / O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre in Appeal No.CIT(A), Coimbatore-3/10285/2019-20 dated 14.10.2021. The assessment was framed by the ACIT, Circle-1,

Erode for the relevant assessment year 2016-17 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 08.12.2018.

2. At the outset, it is noticed that this appeal is barred by limitation by 213 days and assessee has filed condonation petition. The order of CIT(A) was received by assessee on 14.10.2021 and appeal before Tribunal was actually filed on 14.07.2022. It was contended by the Id.counsel that the Hon'ble Supreme Court in has granted grace period up to 29.05.2022 in Miscellaneous Application No.21 of 2022 vide order dated 10.01.2022 had excluded the limitation period for all statutory purposes from 15.03.2020 to 28.02.2022 with a further grace period of 90 days (29.05.2022). In term of the above, the Id.counsel stated that only delay remains is 46 days and this delay has occurred only due to the reasons that the appeal papers were entrusted to the Accounts Manager Shri S.S. Sivashankara Pandian, who failed to file the appeal within the grace period. When these facts were confronted to Id. Senior DR, he opposed condonation of delay but going through the reasons stated as well as the number of days of delay i.e., after excluding the grace period granted by the Hon'ble Supreme Court is 46 days only.

Hence seeing the entirety of facts, we condone the delay and admit the appeal.

3. The only issue in this appeal is that the assessee has filed condonation petition for delay in filing the return of income u/s.119(2)(b) of the Act with the Central Board of Direct Taxes (CBDT) and assessee has filed proof before us, as there was delay in filing of return of income of only 20 minutes as the return of income was filed on 18.10.2016 at 12.20 am instead of time allowed by CBDT upto 17.10.2026. The assessee has given chronology of events in its petition filed before CBDT. The Id.counsel before us stated that the matter can be remitted back to the file of the AO and await the decision of CBDT and thereafter frame assessment whether deduction u/s.80IA of the Act is to be allowed or not. In case the CBDT condones the delay, the AO has to allow deduction u/s.80IA of the Act.

4. When these facts were confronted to Id. Senior DR, he fairly agreed that matter can be restored back to the file of the AO.

5. After hearing both the sides and going through the facts, we set aside the order of CIT(A) and that of the AO and remand the

matter back to the file of the AO to await the decision of CBDT on the petition for condonation of delay filed by assessee. The assessee will take up the condonation petition with CBDT and Revenue will also dispose off as early as possible the petition filed by assessee. In term of the above, appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 17th February, 2023 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 17th February, 2023

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT