

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'A' BENCH: CHENNAI**

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

आयकर अपील सं./ITA No.977/Chny/2020  
निर्धारण वर्ष /Assessment Year: 2013-14

Mr.Ahamed –  
Nagoor Pitchai Mohamed Ali,  
No.21/11, Coral Merchant Street,  
Chennai-600 001.

v. The Dy. Commissioner –  
of Income Tax,  
Non-Corporate Circle-11,  
Chennai.

[PAN: ABUPN 3556 D]  
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr.T. Vasudevan, Adv.  
प्रत्यर्थी की ओर से /Respondent by : Mr. AR.V.Sreenivasan,  
Addl.CIT

सुनवाई की तारीख/Date of Hearing : 08.05.2023  
घोषणा की तारीख /Date of Pronouncement : 19.05.2023

**आदेश / ORDER**

**PER MANJUNATHA.G, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-13, Chennai, dated 10.02.2020 and pertains to assessment year 2013-14.

2. At the outset, we find that there is a delay of 252 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

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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 28.02.2022 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.** The assessee has raised the following grounds of appeal:

*1. The Order of the Commissioner of Income Tax(Appeals) in so far as it is against the assessee is contrary to law, erroneous and unsustainable on the facts of the case.*

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2. *The CIT(A) erred in confirming amounts totaling to Rs.36.70 lacs pertaining to cash deposits made in the bank account of the assessee as unexplained.*
3. *The CIT(A) failed to appreciate that the assessee had fully explained the amount of Rs.27,00,000, which was the amount received from Mr.Sheikh Jehangir.*
4. *The CIT(A) further failed to appreciate that the assessee had sold the goods belonging to Jehangir and the cash was deposited in the bank account and later the assessee made payment through account payee cheque to the Commissioner of Customs for the removal of goods imported by Sheikh Jehangir and hence there was no basis to reject the explanation of the assessee.*
5. *The C1T(A) further failed to appreciate that the explanation of the assessee was also supported by documents for assessee having made the payment to customs on behalf of the said person and hence the explanation for cash deposit of Rs.27 lacs in the bank account ought to be accepted.*
6. *The C1T(A) also ought to have considered the explanation of the assessee with regard to the amount received from M/s. A to Z Electronics and the deposit of Rs.9, 70,000 in the bank account of assessee.*
7. *The CIT(A) failed to appreciate that the assessee had assisted the concern in clearing the goods from Customs by making the payment and in turn, the party had handed over the goods for sale in the market and thus the amount of sale proceeds of goods was deposited in the bank account and thus cash deposit stands explained.*
8. *The C1T(A) further failed to appreciate that the rejection of the explanation was only on hypothesis without any documentary evidence to the contrary and hence the deposit of the cash sale proceeds in the bank account is to be accepted.*
9. *The C1T(A), in any event, ought to have considered the submissions made and the relevant materials placed on record in the remand proceedings and thus accepted the entire cash deposits of Rs.36,70,000 as having been duly explained and thus accepted the income returned by the assessee.*

**4.** The brief facts of the case are that the assessee is an individual filed its return of income for the AY 2013-14 on 31.03.2015 declaring total income of Rs.1,32,35,250/-. The case was selected for scrutiny and assessment has been completed u/s.143(3) of the Act, on 30.03.2016, and determined total income of Rs.2,26,12,500/- by making addition towards unexplained cash deposits amounting to Rs.93,77,250/-. The assessee carried the matter in appeal before the First Appellate Authority, and explained source for cash deposits along with certain additional evidences. The Ld.CIT(A) remanded the case to the AO for his comments. The AO vide his Remand Report commented to the additional evidences filed by the

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assessee and also their veracity. The Ld.CIT(A) after considering relevant evidences filed by the assessee and also taken note of Remand Report of the AO, allowed relief to the assessee, wherever, the AO has accepted the source for cash deposits. However, in respect of source for cash deposits amounting to Rs.27 lakhs and Rs.9,70,000/-, the Ld.CIT(A) sustained the additions made by the AO. Aggrieved by the order of the Ld.CIT(A), the assessee is in appeal before us.

**5.** The Ld.AR for the assessee referring to Remand Report of the AO, which has been reproduced at Page No.6 of the order of the Ld.CIT(A) submitted that the assessee has explained source to the extent of Rs.27 lakhs out of cash received from Mr.Sheikh Jehangir towards DD issued to Customs Department on behalf of Mr.Sheikh Jehangir, but the AO ignored amount received by the assessee. The Ld.Counsel for the assessee further submitted that in respect of a sum of Rs.9.7 lakhs, the assessee has made e-payment to M/s.A to Z Electronics, and the said party has returned in cash, which is source for cash deposits into bank account. The assessee has filed all evidences before the Ld.CIT(A), but the Ld.CIT(A) did not give any findings on evidences filed by the assessee. Therefore, the matter may be remanded to the file of the AO to verify the claim of the assessee.

**6.** The Id.Sr.AR, on the other hand, fairly agreed that the issue may be remanded to the file of the AO for further verification of the claim of the assessee with regard to evidences filed in respect of source for cash

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deposits amounting to Rs.27 lakhs and Rs.9,70,000/- claims to have been received from Mr.Sheikh Jehangir and from M/s.A to Z Electronics.

**7.** We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. The assessee claims to have issued DD on 06.09.2011 in the name of M/s.SSP Enterprises & Majestic Impex for clearance of imported goods in favour of the Commissioner of Customs and said party has paid back in cash. The assessee further claims that he had paid to M/s.A to Z Electronics, a sum of Rs.9.7 lakhs by way of cheque and received back the loan partly in cash and deposited the same into his bank account. Although, the assessee claims to have been issued DD in favour of Mr.Sheikh Jehangir for clearance of imported goods from Customs Department, but no evidence has been filed including relevant bill of entry and other details and also not furnished any evidences to prove that he had received back the cash from said party. Similarly, in respect of amount claims to have been received from M/s.A to Z Electronics, no evidence has been placed on record. The Ld.Counsel for the assessee claimed that all evidences have been placed before the AO & the Ld.CIT(A). Therefore, to verify the veracity of claim made by the assessee with regard to evidences filed in respect of amount received from Mr.Sheikh Jehangir, and M/s.A to Z Electronics, we are of the view that issue needs to go back to the file of the AO for further verification and analysis of evidences filed by the assessee to prove source and thus, we set aside the issue to the file of the AO in so far as source for cash deposits

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in respect of amount claims to have been received from Mr.Sheikh Jehangir, amounting to Rs.27 lakhs and from M/s.A to Z Electronics amounting to Rs.9.7 lakhs only. The AO is directed to verify the claim of the assessee in light of various evidences to be placed before the AO and decide the issue in accordance with law.

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

Order pronounced on the 19<sup>th</sup> day of May, 2023, in Chennai.

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

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

चेन्नई/Chennai,  
दिनांक/Dated: 19<sup>th</sup> May, 2023.  
**TLN**

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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