

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
**IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI**  
श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष ।  
**Before Shri V. Durga Rao, Judicial Member &**  
**Shri Manoj Kumar Aggarwal, Accountant Member**

आयकर अपील सं./I.T.A. No.452/Chny/2023  
निर्धारण वर्ष/Assessment Year: 2012-13

Jamal Mohideen Haroon Imran Khan,  
15/7, Vijayaragava Road First Street,  
T. Nagar, Chennai 600 017.  
**[PAN:AAOPI4540B]**

Vs. The Income Tax Officer,  
Non Corporate Ward 1(2),  
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : None  
प्रत्यर्थी की ओर से/Respondent by : Shri P. Sajit Kumar, JCIT  
सुनवाई की तारीख/ Date of hearing : 29.05.2023  
घोषणा की तारीख /Date of Pronouncement : 31.05.2023

**आदेश /O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi dated 23.06.2022 for the assessment year 2012-13.

2. The appeal filed by the assessee is delayed by 227 days in filing the appeal before the Tribunal. The assessee has filed a petition for condonation of delay in the form of an affidavit by stating as under:

1. *I am an individual and Petitioner/Appellant in the impugned proceedings before this Hon'ble Tribunal. I am well acquainted with the facts and circumstances of the case.*

2. *I submit that the said order of the Commissioner of Income Tax (Appeals)-1 (CIT-A) was received by me on 23.06.2022. The appeal ought to have been filed within a period of 60 days from the date of receipt of the said order i.e., on or before 23.08.2022.*
3. *I submit that the concerned staff Mr. Vasanth (17.07.2022) and counsel Mr. N. Devanathan, Advocate (01.07.2021)\_ who was looking after the appeal files had expired in the Covid 19 period and the appellant herein was handicapped without any information and papers. It is due to this reason that I was unable to hand over the documents to my new counsel within the time limit to enable my counsel to file the appeal papers before this Hon'ble Tribunal. Subsequently, I was able to hand over the papers and sign all the documents pertaining to the appeal papers and the same was filed before this Hon'ble Tribunal on 05.04.2023.*
4. *Hence the appeal could not be represented within the time limit allowed. There is a delay of 227 days in filing the appeal. The delay is neither wilful nor intentional but owing to circumstances beyond the control of the Petitioner/Appellant. I state that the delay is neither wilful nor wanton but due to the aforesaid reasons only.*
5. *It is therefore prayed that the Hon'ble Income Tax Appellate Tribunal may graciously be pleased to condone the delay of 227 days in filing the Tax Case Appeal and thus render justice.*

2.1 None appeared on behalf of the assessee. Hence, we proceed to decide the appeal on merits.

2.2 The Id. DR has objected to the above submissions of the assessee.

2.3 We have heard the Id. DR and considered the submissions made in the affidavit for condonation of delay, which was duly notarized. In the affidavit, the assessee has made a submission that his earlier Counsel Shri N. Devanathan, Advocate, who passed away due to Covid-19, retained the appeal papers and therefore, the assessee become handicapped without any information and appeal papers. The assessee

also submitted in the affidavit that the delay was neither wilful nor wanton but owing the circumstances beyond the control of the assessee. Since the assessee was prevented by reasonable cause, we hereby condone the delay in filing the appeal and admit the appeal for adjudication.

3. Brief facts of the case are that the assessee filed his return of income for the assessment year 2012-13 on 09.05.2013 admitting total income of ₹.6,83,810/- and the same was processed under section 143(1) of the Income Tax Act, 1961["Act" in short] on 30.05.2013. Subsequently, the assessee filed another return on 20.08.2014 admitting an income of ₹.9,70,400/- under various heads. As per the information from the Investigation Wing, Chennai that the assessee has received funds aggregating ₹.79.74 lakhs, which includes demand drafts deposits totalling ₹.49 lakhs, cash of ₹.16.24 lakhs and also received RTGS credit of ₹.14.50 lakhs from the account of Shri JMH Mohammed maintained with Axis Bank Ltd. and moreover, the assessee was involved in three property transactions, a notice under section 148 of the Act dated 28.03.2019 was issued and served on the assessee. Despite various notices issued including pre-assessment notice, there was no response from the assessee. Hence, based on the materials available with the Department, the Assessing Officer completed the best judgement

assessment under section 144 r.w.s. 147 of the Act dated 28.11.2019 by assessing total income of the assessee at ₹.2,36,75,614/- after making various additions. On appeal, the Id. CIT(A) confirmed the assessment made by the Assessing Officer since there was no response from the assessee by filing any written submissions despite various opportunities afforded to the assessee.

4. On being aggrieved against the appellate order, the assessee carried the matter in appeal before the Tribunal. None appeared on behalf of the assessee and we proceed to decide the appeal on merits after hearing the Id. DR.

5. We have heard the Id. DR, perused the materials available on record and gone through the orders of authorities below. Against the best judgement assessment under section 144 r.w.s. 147 of the Act dated 28.11.2019, the assessee carried the matter in appeal before the Id. CIT(A). The Id. CIT(A) issued hearing notices on eleven occasions for filing the written submissions. However, the assessee has responded to the above notices. Therefore, considering the materials available on record, the Id. CIT(A) confirmed the assessment made under section 144 r.w.s. 147 of the Act.

6. Before the Tribunal, the assessee has raised a specific ground that

the Id. CIT(A) has failed to grant a proper opportunity to the assessee since the assessee was unaware about the NFAC scheme/hearing and the concerned staff, auditor and counsel who were handing all the appeal papers were passed away in the Covid 19 period and the assessee become handicapped to approach the NFAC on the hearing. Considering the specific ground raised by the assessee in the grounds of appeal, we are of the considered opinion that the assessee shall be given one more opportunity of being heard to meet the ends of natural justice. Accordingly, we set aside the appellate order and remit the matter back to the file of the Id. CIT(A) with a direction to afford one more opportunity of being heard to the assessee. The assessee is also directed to furnish complete details with material evidence before the Id. CIT(A) for consideration.

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

Order pronounced on 31<sup>st</sup> May, 2023 at Chennai.

Sd/-  
(MANOJ KUMAR AGGARWAL)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 31.05.2023

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent,  
3. आयकर आयुक्त/CIT, 4. विभागीय प्रतिनिधि/DR & 5. गार्ड फाईल/GF.