

आयकर अपीलीय अधिकरण "सी" न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, CHENNAI

माननीय श्री वी. दुर्गा राव, न्यायिक सदस्य एवं
माननीयश्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI V. DURGA RAO, JMAND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपीलसं./ITA No.512/Chny/2023
(निर्धारणवर्ष / Assessment Year: 2014-15)
&

आयकर अपीलसं./ITA No.513/Chny/2023
(निर्धारणवर्ष / Assessment Year: 2017-18)

M/s. K.S.M. Agencies 291/14, Thanjavur Road, Orathanadu Taluk, Thanjavur-614 625.	बनाम/ Vs.	ITO Ward-2, Thanjavur.
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No. AAMFK-3568-P		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकी ओरसे/ Appellant by	:	Shri K.Meenakshisundaram,(ITP)– Ld.AR
प्रत्यर्थीकी ओरसे/ Respondent by	:	Shri P. Sajit Kumar (JCIT) – Ld. Sr. DR

सुनवाईकी तारीख/ Date of Hearing	:	31-05-2023
घोषणाकी तारीख/ Date of Pronouncement	:	05-06-2023

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aggrieved by ex-parte orders of first appellate authority for captioned assessment years, the assessee is in further appeal before us. The registry has noted delay of 170 days in appeal for AY 2014-15 and delay of 363 days in the appeal for AY 2017-18, the condonation of

which has been sought by the assessee by way of condonation petition which is supported by the affidavit of the assessee.

2. Drawing attention to condonation petition and Form No.35, Ld. AR submitted that impugned order was sent to email id of Shri Achakala Srinivsalu, CA which was practicing in Chennai in 2020. However, he moved to Vijayawada afterwards. The same led to delay in receipt of impugned orders. The Ld. Sr. DR opposed condonation of delay and submitted that it was incumbent for the assessee to ensure quoting of his own email Id and contact numbers in the appeal documents for timely receipt of communications and act upon the same. The Ld. Sr. DR filed a note, in this regard, which read as under: -

The Counsel for the assessee had pleaded for restoration of its appeal back to the CIT(Appeals) for fresh adjudication of the case on merits since CIT(Appeals) in the first round of appeal has dismissed the appeal on account of non-response to the hearing notices issued by way of email and placing the copies of such notices in the e-filing account of the assessee. It was pleaded before the Bench that email address that was submitted by the assessee in its appeal form as well as e-filing account belonged to an accountant and on account of accountant having left his profession, the assessee was unaware of various communications sent by the Department to the assessee leading to dismissal of the appeal for non-appearance.

Based on the above submission, the Bench was considerate in accepting the Counsel's plea. In this regard, the Department would like to make the following submission:

The Bench may consider in restoring the appeal back to the CIT(Appeal) for adjudicating the dispute on merit in line with the Principles of Natural Justice. However, it may be noted that the total breakdown in Department Communication reaching the assessee has occurred on account of grave fault committed by the assessee in not providing the correct email address, mobile number and more importantly, compromising on the login credentials to the assessee's e-filing portal account with someone else. With advent of statutory mandated e-filing of returns/forms, e-communications, e-assessment and appeal process through faceless mode, the assessee have been mandated by the Department to provide their correct digital contact details to enable near instantaneous, 24 x 7, 365 days global outreach. To ensure such direct 24 x 7, 365 days global access between the assessee and the Department, the Department had enabled in the profile page of the e-filing account for every assessee, to provide its Primary email id and Primary mobile number. In addition to this, if an assessee desires to also include communication to be sent to its Authorized Representative or any other contact, a facility to provide the secondary email and mobile number with relationship identified

has been enabled. All communication by the Department is legally mandated using these contact details provided by the assessee. The assessee is duty bound to ensure they correctly comply accordingly. Additionally, a copy of every statutory communication sent to the assessee are placed in the e-filing account of the assessee, so that assessee at its leisure can access and comply with such communication 24 x 7, 365 days from across the globe. Over and above these facilities, an added facility, in line with the provisions of section 288 of the Act, is provided to each and every assessee through e-filing account to add an Authorized Representative against each of the Departmental proceeding. When assessee adds such Authorized Representative, the proceeding details and all the communications are simultaneously made available, both to the assessee and its authorized Representative, for either of their compliance. The assessee having defaulted in its primary duty to provide its own contact details, having compromised on its e-filing account login credentials and having failed to avail a facility to add Authorized Representative requires no true lenience especially when all Government Functions are statutorily made in digital format. Ignorance of law and process should strictly not be encouraged as it should be the endeavour of every statutory authority to uphold the law in its true spirit for it to function.

It is requested that the above submission be made as a part of the order passed to enable due compliance by the assessee and as a part of assessee's education on process."

3. We concur with the aforesaid submissions made by Ld. Sr. DR that mentioning of correct contact particulars including email id by the assessee to the department is absolutely essential in digital era and supply of correct particulars would ensure enhanced taxpayers' services by the department in the digital mode. Considering the same, we may observe that the department may undertake suitable publicity campaign in this regard, as deemed fit, to educate the taxpayers in this respect.

4. Coming to the present appeals, considering the contents of condonation petition and keeping in mind the principles of natural justice, we deem it fit to condone the delay in both the appeals and restore the appeals to the file of first appellate authority for denovo adjudication by way of speaking order with a direction to the assessee to substantiate its claim forthwith. Needless to add that adequate opportunity of hearing shall be granted to the assessee.

5. Both the appeals stand allowed for statistical purposes.

Order pronounced on 05th June, 2023.

Sd/-

(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(MANOJ KUMAR AGGARWAL)

लेखासदस्य / ACCOUNTANT MEMBER

चेन्नईChennai; दिनांकDated : 05-06-2023

DS

आदेश की प्रतिलिपि ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकरआयुक्त/CIT 4. विभागीयप्रतिनिधि/DR 5.
गार्डफाईल/GF