

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' SMC BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member

आयकर अपील सं./I.T.A. No.201/Chny/2023
निर्धारण वर्ष/Assessment Year: 2013-14

Baskaran,
5, II Floor, Chitra Complex Trichy,
Trichy 620 002.

Vs. The Deputy Commissioner of
Income Tax, Circle I,
No. 44, Williams Road, Cantonment,
Thiruchirappalli 620 001.

[PAN:AADHB7838N]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri A. Sarangan, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri P. Sajit Kumar, JCIT
सुनवाई की तारीख/ Date of hearing : 07.06.2023
घोषणा की तारीख /Date of Pronouncement : 09.06.2023

आदेश /O R D E R

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 22.12.2022 relevant to the assessment year 2013-14.

2. Brief facts of the case are that the assessee has filed the return of income for the assessment year 2013-14 on 01.10.2013 admitting income of ₹.13,23,700/-. This case was selected for scrutiny under the CASS. A notice under section 143(2) of the Income Tax Act, 1961 ["Act" in short] was issued on 02.09.2014 and served on the assessee on 03.09.2014.

After considering the details furnished by the assessee, the Assessing Officer has completed the assessment under section 143(3) of the Act dated 26.03.2016 assessing taxable income of the assessee at ₹.39,40,010/- after making addition towards disallowance of rent and disallowance of advertisement expenses under section 40a(ia) of the Act since the assessee has not deducted TDS under section 194I and 194C of the Act respectively.

3. The assessee preferred further appeal before the Id. CIT(A) with a delay of 325 days in filing the appeal before the Id. CIT(A). The Id. CIT(A) rejected the appeal of the assessee by not condoning the delay in filing the appeal as no sufficient cause was shown by the assessee.

4. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the appeal filed before the Id. CIT(A) was dismissed on the ground that the delay in filing the appeal before the Id. CIT(A) was not properly substantiated. It was further submission that before the Id. CIT(A) the assessee filed detailed application for condonation of delay in filing the appeal and explained that due to prolonged illness of Shri Baskaran, the Karta of the HUF, who was managing the entire business has been prevented from participating in the day-to-day activities of the business for a long time. It was also

submitted that there was no intentional delay in preparing and filing the appeal before the Id. CIT(A) and the circumstances were beyond the control of the assessee and not wilful. The Id. Counsel for the assessee has also submitted that the Id. CIT(A) has not adjudicated the case on merits and prayed for condoning the delay in filing the appeal before the Id. CIT(A) and may be directed the Id. CIT(A) to adjudicate the case on merits by affording an opportunity of being heard to the assessee.

5. On the other hand, the Id. DR supported the order passed by the Id. CIT(A).

6. Heard both the sides, perused the materials available on record and gone through the orders of authorities below. On perusal of the appellate order, we find that there was delay of 325 days in filing the appeal before the Id. CIT(A) for which the assessee has filed an application for condonation of delay in filing the appeal and explained that due to prolonged illness of Shri Baskaran, the Karta of the HUF, who was managing the entire business has been prevented from participating in the day-to-day activities of the business for a long time. It was also submitted that there was no intentional delay in preparing and filing the appeal before the Id. CIT(A) and the circumstances were beyond the control of the assessee and not wilful. Since it was not possible to discuss

the tax matter or any other important matters with a person due to his prolonged illness, it is opined that there was reasonable cause for the delay in filing the appeal before the Id. CIT(A) and the delay in filing the appeal has to be condoned. Thus, the appellate order is set aside and remit the matter back to the file of the Id. CIT(A) with a direction to condone the delay as well as adjudicate the case on merits by affording an opportunity of being heard to the assessee.

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

Order pronounced on 09th June, 2023 at Chennai.

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 09.06.2023

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.