

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' 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. Nos.751 & 752/Chny/2023
निर्धारण वर्ष/Assessment Year: 2015-16 & 2014-15

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

Vs. The Assistant Commissioner of
Income Tax,
Circle 1, Thiruchirappalli.

[PAN:AADHB7838N]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Raghav Rajeev Menon, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri D. Hema Bhupal, JCIT
सुनवाई की तारीख/ Date of hearing : 25.07.2023
घोषणा की तारीख /Date of Pronouncement : 28.07.2023

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

Both the appeals filed by the assessee are directed against the separate but identical orders of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi dated 02.12.2022 and dated 20.01.2023 relevant to the assessment years 2015-16 and 2014-15 respectively.

2. Both the appeals filed by the assessee are delayed by 140 days and 91 days for the assessment years 2015-16 and 2014-15 respectively

in filing the appeal and filed petitions for condonation of delay in support of an affidavit. By referring to the above petitions, the Id. Counsel for the assessee has submitted that there is reasonable cause for the delay and the delay in filing the appeal is neither wilful nor wanton. It was prayed for condonation of delay and to admit the appeal for adjudication. Against the above submissions, the Id. DR has not raised any serious objection. Considering the petitions filed by the assessee, we hereby condone the delay in filing the appeal and admit the appeals for adjudication.

3. Brief facts of the case are that the assessee HUF is engaged in the business of multi commodity exchange broker operating in the name of Goodwill Commodities. The assessee filed return of income for the assessment year 2015-16 on 12.03.2016 returning an income of ₹.30,18,940/-. The case was selected for complete scrutiny under CASS. After considering the details furnished against statutory notices, the Assessing Officer has completed the assessment order under section 143(3) of the Income Tax Act, 1961 ["Act" in short] dated 14,12,2017 by assessing total income of the assessee at ₹.39,53,441/- after making disallowance towards payments made to two companies incurred for software expenses of ₹.9,34,501/-. Similarly, for the assessment year 2014-15, the Assessing Officer made disallowance of rent payment of

₹.2,64,000/- towards non-deduction of TDS. On appeal, the Id. CIT(A) dismissed both the appeals of the assessee by not condoning the delay in filing the appeals as no sufficient cause was shown by the assessee.

5. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that the appeals 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 submitted before the Id. CIT(A) that the assessee was suffering from severe heart ailment and therefore, there was delay in online filing of the appeals for both the assessment years. 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 appeals 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.

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

7. We have 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 156 days and 178

days in filing the appeal for the assessment years 2015-16 and 2014-15 respectively before the Id. CIT(A) for which the assessee has stated that due to the ill health of the assessee, there was a delay in filing the appeal and this statement was not in dispute. Since it was not possible to discuss the tax matter or any other important matters with a person ailing from heart disease seeking expert opinion, we are of the considered opinion that there was reasonable cause for the delay in filing the appeals before the Id. CIT(A). Thus, we set aside the appellate order and direct the Id. CIT(A) to condone the delay for both the assessment years as well as adjudicate the appeals on merits by affording an opportunity of being heard to the assessee.

8. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on 28th July, 2023 at Chennai.

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 28.07.2023

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.