

**आयकर अपीलीय अधिकरण “ए” न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“A” BENCH, CHENNAI**

**मजनीय श्री महवीर सिंह, उपाध्यक्ष एवम्**  
**मजनीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकर अपील संख्या ITA No.171/Chny/2023**  
**(निर्धारण वर्ष / Assessment Year: 2012-13)**

M/s. New Chennai Township Pvt. Ltd., Registered Office : Seekanakuppam Cheyyur, Kancheepuram-603 305.	बनम् / Vs.	DCIT (OSD) Corporate Circle-4, Chennai.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No.	<b>AACCN-3054-A</b>	
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकी ओरसे/ <b>Appellant by</b>	:	Shri B. Ramakrishnan (FCA)-Ld. AR
प्रत्यर्थीकी ओरसे/ <b>Respondent by</b>	:	Shri AR V Sreenivasan (Addl.CIT)- Ld. DR

सुनवाईकी तारीख/ <b>Date of Hearing</b>	:	21-08-2023
घोषणाकी तारीख / <b>Date of Pronouncement</b>	:	23-08-2023

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2012-13 arises out of order of learned Commissioner of Income Tax (Appeals)-8, Chennai [CIT(A)] dated 18-08-2017 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.143(3) on 27-03-2015.
2. Upon perusal of the assessment order, it could be seen that returned income filed by the assessee for Rs.18.94 Lacs has been assessed at Rs.504.96 Lacs after certain additions and disallowances. The assessee assailed the same before Ld. CIT(A) vide impugned order dated 18-08-2017, wherein the assessee failed to appear during those

proceedings and accordingly, the appeal was dismissed for non-prosecution. Aggrieved, the assessee is in further appeal before us.

3. The Registry has noted delay of 1941 days in the appeal, the condonation of which has been sought by the assessee on the strength of affidavit dated 09-02-2023. The Ld. AR submitted that assessee company underwent insolvency proceedings since 05-07-2019 which ultimately got culminated on 27-05-2023 by the order of Hon'ble NCLT, Chennai wherein CIRP initiated against the corporate debtor was withdrawn. The Ld. AR submitted that substantial period of delay is covered by those proceedings. The Ld.AR sought to explain the delay as under: -

From Date	To Date	No. of days	Remarks / Reason
18-08-2017	17-10-2017	60	Regular time to file appeal
18-10-2017	04-07-2019	624	Bank servicing defaults IBC cases filed. Financial crisis in company and high employee's attrition causing no proper handling over litigations.
04-07-2019	27-05-2022	1058	CIRP process from Moratorium to conclusion of order u/s 12A of the IBC
27-05-2022	09-02-2023	258	Taking stock of pending litigation and affairs of the company
Total No. of days of delay		1940	

The Ld. AR also submitted that period from 15-03-2020 to 28-02-2022 is to be excluded for the purpose of limitation due to Covid-19 Pandemic. The Ld. AR also relied on the decision of the Hon'ble Supreme Court in the case of **Collector, Land Acquisition Vs Ms. Katiji in 1987 Taxmann.com 1072(SC)** and pleaded for condonation of delay. On merits, Ld. AR placed on record a petition u/r 29 praying for admission of additional evidences in view of the fact that first appeal has been dismissed for non-prosecution. The Ld. Sr. DR vehemently opposed

condonation of delay and submitted that no reasonable cause could be shown by the assessee.

4. After considering the aforesaid arguments of Ld. AR, the bench formed an opinion that the delay was to be condoned. The assessee was facing IBC proceeding for substantial period of time which would have certainly disrupted assessee's functioning adversely. Therefore, we condone the delay and admit the appeal for adjudication on merits.

5. Since impugned order is an ex-parte order dismissing the appeal for non-prosecution, we restore the appeal back to the file of Ld. CIT(A) for fresh adjudication in the light of additional evidences furnished by the assessee. Needless to add that reasonable opportunity of hearing shall be granted to the assessee.

6. The appeal stand allowed for statistical purposes.

*Order pronounced on 23<sup>rd</sup> August, 2023.*

**Sd/-**  
**(MAHAVIR SINGH)**  
**उपअध्यक्ष / VICE PRESIDENT**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
**लेखासदस्य / ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated :23-08-2023  
DS

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

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