

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANJUNATHA.G, ACCOUNTANT MEMBER**

आयकर अपीलसं./ITA No.: **77/CHNY/2023**

निर्धारण वर्ष/Assessment Year: 2008-09

Chain-Sys (India) Pvt. Ltd.,
No.85, Pnniamman Nagar,
Ayanambakkam,
Chennai – 600 095.

The ACIT,
vs. Company Circle 1(3),
Chennai.

PAN : AACCC 0304N

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Ms. Sree Lakshmi Valli, Advocate

प्रत्यर्थीकी ओर से/Respondent by

: Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 11.09.2023

घोषणा की तारीख/Date of Pronouncement

: 11.09.2023

आदेश / O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals)-1, Chennai in ITA No.795/CIT(A)-1/2010-11 dated 27.08.2020. The assessment was framed by the ACIT, Company Circle-1(3), Chennai for the

assessment year 2008-09 u/s.144 of the Income Tax Act, 1961 (hereinafter the 'Act'), vide order of dated 16.12.2010.

2. At the outset, it is noticed that this appeal is barred by limitation by 879 days. The facts are that the order of CIT(A) for relevant assessment year 2008-09 is dated 27.08.2020. The assessee in Form No.36 admitted that the CIT(A)'s order was communicated to the assessee on 27.08.2020. There is no dispute about these facts. Even now before us during the course of hearing, both parties admitted this. The appeal was filed before Tribunal on 23.01.2023 that means, there is a delay of 879 days. The assessee in its affidavit claimed that there is a delay of 819 days because, it has excluded the first 60 days, which is statutorily allowed to assessee to file the appeal. But, there is a delay of 879 days. The Id.counsel now before us during the course of hearing stated that the Hon'ble Supreme Court vide order in SMW(C) No.3 of 2020 dated 23.03.2020 extended the limitation for filing the appeals and subsequently in M.A. No.665 of 2021 had restored the order dated 23.03.2020, in continuation of order dated 23.09.2021. The relevant portions of the order dated 10.01.2022 are extracted herewith.

I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand

excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasijudicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

The Id.counsel stated that upto 01.03.2022, the limitation was extended by Hon'ble Supreme Court and hence, there is no question of limitation up to that date. From that date, 60 days have to be allowed for filing of appeal by the assessee and 60 days starts from 01.03.2022. Accordingly, the limitation will fall on 30.04.2022. The limitation if starts from 30.04.2022 till the date of filing i.e., 23.01.2023, delay is of 267 days. For 267 days delay, the assessee in its affidavit has given the following reasons:-

5. I am advised that the delay in filing the appeal until 30.05.2022 would be covered by the decision aforesaid of the Hon'ble apex court and the remaining period of delay not covered by the Hon'ble Court's decision would only be 237 days.

6. I submit that the order of the Commissioner of Income tax (Appeals) was received during the peak covid period and hence could not be attended to immediately. All our efforts were dedicated towards running of the business and the safety of the employees. Hence, in such unprecedented times, filing of further appeal against the order of Commissioner of Income

Tax (Appeals) was omitted to be filed. After covid period, post stabilization of business, while doing an internal check for pending issues, pending of filing of appeal was identified and steps were taken to immediately file an appeal.

7. I submit that the delay in filing the above appeal is neither wilful nor wanton but only due to the reasons stated above. If the delay in filing the present appeal is not condoned, we would be put to irreparable loss and hardship. In view of the above, it is prayed that this Hon'ble Tribunal may be pleased to

- a. condone the delay in filing the appeal of 819 days ;
- b. Admit, hear and dispose of the appeal in accordance with law; and
- c. Pass such further or other order or orders that this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice.

2.1 The Id.counsel for the assessee stated that after Covid period, post stabilization of business, while doing an internal check for pending issues, pending appeal for filing was identified and steps were taken to immediately file the appeal. But the Id.counsel could not give reason as to how it took 267 days in filing this appeal and even if we exclude basic limitation period of 60 days from this also, there remains 207 days. The assessee has not elaborated any reason or even now before us, the Id.counsel could not point out what was the reasonable cause or what was the reason for not filing the appeal from 30.04.2022 till 22.01.2023. The reason stated that after Covid period, post stabilization of business, while doing an internal check for pending issues, pending appeal for filing was

identified and steps were taken to immediately file the appeal are not at all reasonable cause. Since, the assessee is unable to show any reason before us or any reasonable cause for not filing appeal within the time period limitation after expiry of extension period by the Hon'ble Supreme Court, we are not inclined to entertain the condonation plea and dismiss the same. Therefore, we dismiss the appeal of the assessee as un-admitted.

3. In the result, the appeal filed by the assessee is dismissed as un-admitted.

Order pronounced in the open court on 11th September, 2023 at Chennai.

Sd/-

(मंजुनाथ. जी)
(MANJUNATHA.G)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)
(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 11th September, 2023

RSR

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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