

आयकर अपीलिय अधिकरण न्यायपीठ पणजी में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL, PANAJI

(Through Virtual Court)

BEFORE SHRI R.S. SYAL, VICE PRESIDENT  
AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.19/PAN/2019  
निर्धारण वर्ष / Assessment Year : 2013-14

M/s. Charis Agro and Cold Storage,  
H. No. 1313(p), KIADB Auto Nagar,  
Belagavi

PAN : AAFFC0077N

.....अपीलार्थी / Appellant

बनाम / V/s.

Principal Commissioner of Income Tax,  
Balagavi

.....प्रत्यर्थी / Respondent

Assessee by : Shri Balu Anand  
Revenue by : Shri P.S. Shivshankar

सुनवाई की तारीख / Date of Hearing : 11-09-2023  
घोषणा की तारीख / Date of Pronouncement : 20-09-2023

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the assessee against the order dated 19-11-2018 passed by the Principal Commissioner of Income Tax, Belagavi for assessment year 2013-14.

2. We find that this appeal was filed with a delay of 05 days. The assessee filed notarized affidavit dated 05-04-2019 explaining the reasons for delay. On perusal of the same and hearing both the parties, we find that the reasons stated by the assessee are bonafide which really prevented

the assessee to file the present appeal in time. Therefore, the delay of 05 days are condoned.

3. The ld. AR vehemently argued that the order passed by the Pr. CIT u/s. 154 of the Act modifying its own order passed u/s. 263 of the Act directing the AO to examine the issue of non-levy of capital gains as per section 45(4) of the Act is not maintainable. The ld. DR drew our attention to the order dated 26-03-2018 passed u/s. 263 of the Act and argued that the Pr. CIT raised issue in 263 proceedings itself regarding non-levy of capital gains as per section 45(4) of the Act and by mistake there was no direction given in the said order. He vehemently argued that the Pr. CIT is the well within its jurisdiction issuing a direction u/s. 154 of the Act and prayed to dismiss the appeal of assessee.

4. After hearing both the parties, we find the Pr. CIT raised the issue of non-levy of capital gains in point No. 2 in 263 proceedings which is evident from para 2 of the original 263 order dated 26-03-2018 and therefore, we do not find any force in the argument of ld. AR that the order passed u/s. 154 is not maintainable. Therefore, the order of Pr. CIT passed u/s. 154 is justified. Thus, the grounds raised by the assessee fails and are dismissed.

5. In the result, the appeal of assessee is dismissed.

Order pronounced in the open court on 20<sup>th</sup> September, 2023.

Sd/-  
(R.S. Syal)  
VICE PRESIDENT

Sd/-  
(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 20<sup>th</sup> September, 2023.

रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT, Belagavi.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पणजी,  
/ DR, ITAT, Panaji.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune