

आयकर अपीलीय 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.: 834/CHNY/2023**

निर्धारण वर्ष/Assessment Year: 2017-18

**Shri Muthukumarasamy  
Durairaj,**  
C1, Lignite Road Neyveli,  
Block 24, Neyveli S.O,  
Cuddalore – 607 801.

**The Asst. Commissioner of  
Income Tax,**  
Circle 1,  
Cuddalore.

**PAN : AMLPD 5209K**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by  
प्रत्यर्थीकी ओर से/Respondent by

: Shri N.V. Narayanan, Advocate  
: Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing : 05.10.2023

घोषणा की तारीख/Date of Pronouncement : 11.10.2023

**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), National Faceless Appeal Centre, Delhi in Order No.ITBA/NFAC/S/250/2023-24/1052960940(1) dated 18.05.2023. The assessment was framed by the ACIT, Circle 1, Cuddalore for the assessment year 2017-18

u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act'), vide order dated 16.09.2019.

2. At the outset it is noticed that this appeal is time barred by 3 days. It is noticed from Form 36 that the order of CIT(A) dated 18.05.2023 was received on 18.05.2023 but appeal was actually filed on 20.07.2023 with a delay of 3 days. The assessee has filed affidavit for condonation of delay stating the reason that the assessee has not received the order of CIT(A) but mentioned the date of order of CIT(A) as the date of communication of order in Form 36. The assessee further stated that he has not received the order even in his e-mail ID and only when his accountant checked the e-proceedings tab in portal informed him that proceedings was completed and the first appellate order was completed in the month of May and time limit for filing appeal was about to expire. Then upon intimation by his accountant, the appeal was filed with a delay of 3 days. As the delay is small just of 3 days and the cause seems reasonable, which was not contested by Revenue, we condone the delay and admit the appeal.

3. The first issue in this appeal of assessee is as regard to violation of principles of natural justice and no opportunity of being

heard was granted by CIT(A) while dismissing the appeal. For this, assessee raised following ground Nos.1 & 2:-

“1. The order of the Commissioner of Income Tax (Appeal) (CIT’A’) is against the facts and circumstances of the case, law and principles of equity and natural justice.

2. The CIT erred in dismissing the appeal without granting opportunity of being heard and thereby violated the principle of natural justice. It is evident from the materials available on record that the CIT(A) failed to serve any hearing notices on the Appellant.”

4. We have heard rival contentions and gone through facts and circumstances of the case. We noted from the assessee’s paper-book page 35, wherein screenshot of notices are enclosed and there are two notices issued by CIT(A) for fixing the appeal, issued on 20.04.2023 and it is a deficiency letter and another letter issued on 16.11.2022 i.e., enablement of communication that means that there is a technical glitch and letter cannot be issued. These two notices were issued vide Nos.ITBA/NFAC/S/25/2023-24/1052221919(1) & ITBA/NFAC/S/62/2022-23/1047388536(1). Finally, the CIT(A) passed the order dated 18.05.2023. It means that no notice was practically issued for hearing and there is no proof that any other notice was issued and served on the assessee. Moreover, the CIT(A) has not at all discussed the issue on merits. Hence, in the interest of justice, we set aside the order of CIT(A) on the issue of principles of natural justice and remand the matter back

to his file for fresh adjudication after allowing reasonable opportunity of being heard to the assessee. In term of the above, appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 11<sup>th</sup> October, 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 11<sup>th</sup> October, 2023

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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