

अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI  
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri V. Durga Rao, Judicial Member &  
Shri Manjunatha, G., Accountant Member

आयकर अपील सं./I.T.A. No.932/Chny/2023  
निर्धारण वर्ष/Assessment Year: 2017-18

Thangarasu Manimaran,  
No. 15 4<sup>th</sup> Avenue, Malligai Flat,  
Dr. Seethapathy Nagar Extn.,  
Velachery 600 042, Tamil Nadu.

Vs. The Deputy Commissioner of  
Income Tax,  
Non Corporate Circle 19(1),  
Chennai.

**[PAN: AIQPM7994M]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Girish Kumar, Advocate  
प्रत्यर्थी की ओर से/Respondent by : Shri AR V Sreenivasan, Addl. CIT  
सुनवाई की तारीख/ Date of hearing : 18.10.2023  
घोषणा की तारीख /Date of Pronouncement : 31.10.2023

**आदेश / O R D E R**

**PER V. DURGA RAO, JUDICIAL MEMBER:**

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi, dated 27.07.2023 relevant to the assessment year 2017-18.

2. Brief facts of the case are that the assessee is an individual and filed his return of income for the assessment year 2017-18 on 31.03.2018

reporting the taxable income at ₹.31,69,180/-. The return filed by the assessee was processed under section 143(1) of the Income Tax Act, 1961 ["Act" in short] vide intimation order dated 27.02.2019. While passing the order, the CPC disallowed a sum of ₹.1,36,20,000/- by invoking the provisions of section 40(a)(ia) of the Act for want of deduction of tax at source. During the AY under consideration, the assessee had purchased three lands/properties which were shown in the balance sheet under the schedule "Current Assets". While making the payment towards above purchase, the assessee had not deducted tax at source under section 194IA of the Act. The above fact was also stated in the Tax Audit Report filed under section 44AB of the Act. Based on the tax audit report filed under section 44AB of the Act, an amount of ₹.1,36,20,000/- being 30% of the amount paid without deduction of tax at source in terms of section 194IA of the Act was disallowed while processing the return under section 143(1) of the Act.

3. The assessee carried the matter in appeal before the Id. CIT(A) with a delay of 169 days by furnishing reasons for condonation of delay in Form No. 35. Since the Id. CIT(A) has observed that the reasons furnished by the assessee was very vague, the appeal of the assessee was dismissed.

4. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has submitted that since the assessee was prevented by reasonable cause, he was unable to file the appeal before the Id. CIT(A) within the time provided under the Act. Thus, the Id. Counsel for the assessee prayed that the delay in filing the appeal before the Id. CIT(A) may be condoned and the assessee may be afforded an opportunity to substantiate his case.

4. On the other hand, the Id. DR strongly supported the order of the Id. CIT(A).

5. We have heard both the sides, perused the materials available on record and gone through the order of the Id. CIT(A). The appeal before the Id. CIT(A) was filed with a delay of 169 days in filing the appeal and also furnished reasons for condonation of delay in Form No. 35 filed by the assessee. However, the Id. CIT(A) has not condoned the delay and dismissed the appeal of the assessee. We find that in support of the condonation of delay, the assessee has not filed any affidavit. In view of the above facts, we direct the assessee to file fresh condonation petition along with an affidavit before the Id. CIT(A) for condonation of delay and the same may be considered by Id. CIT(A) liberally and pass order in

accordance with law by affording an opportunity of being heard to the assessee to substantiate his case.

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

Order pronounced on 31<sup>st</sup> October, 2023 at Chennai.

Sd/-  
(MANJUNATHA, G.)  
ACCOUNTANT MEMBER

Sd/-  
(V. DURGA RAO)  
JUDICIAL MEMBER

Chennai, Dated, 31.10.2023

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.