

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI**

श्री महावीर सिंह, माननीय उपाध्यक्ष, एवं
श्री मंजूनाथा.जी, माननीय लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI MANJUNATHA.G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.133/Chny/2023
निर्धारण वर्ष /Assessment Year: 2016-17

Ms. Raghupathy Dhakshayani, No.100, Raja garden, Andalammal Street, Nolambur, Chennai-600 095. [PAN: AJBPD 7249 N] (अपीलार्थी/Appellant)	v.	The Income Tax Officer, Non-Corporate Ward-8(3), Chennai. (प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.Anandd Babunath, CA
प्रत्यर्थी की ओर से /Respondent by	:	Mr.AR.V.Sreenivasan, Addl.CIT
सुनवाई की तारीख/Date of Hearing	:	30.10.2023
घोषणा की तारीख /Date of Pronouncement	:	30.10.2023

आदेश / ORDER

PER MANJUNATHA.G, AM:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-9, Chennai, dated 12.09.2019, and pertains to assessment year 2016-17.

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2. The Ld.Counsel for the assessee, Shri Anandd Babunath, CA, at the time of hearing, submitted that the appeal has been filed with a delay of 1161 days, for which, petition for condonation of delay in filing of the appeal along with Affidavit explaining the reasons for such delay has been filed. The Ld.Counsel for the assessee, referring to petition filed by the assessee submitted that the Ld.CIT(A) has passed order on 12.09.2019 and the same has been communicated to the assessee on 01.10.2019. The assessee should have filed appeal on or before 29.11.2019. However, she had filed the appeal on 03.02.2023 after delay of 1161 days. The reasons for delay in filing of the appeal is due to reasons beyond the control of the assessee, because, she was residing with her son in Pune and came back to Chennai only in January, 2023. Further, order passed by the Ld.CIT(A) was received by her brother-in-law, Shri Raja Balu, however, he failed to communicate the receipt of the order to the assessee. She had come to Chennai in January, 2023 and learnt about the appeal order passed by the Ld.CIT(A) and took steps to prefer an appeal before the Tribunal, which caused delay of 1161 days. The delay in filing of the appeal was on account of assessee's absence from Chennai, but not to gain any undue benefit. Therefore, the Ld.Counsel for the assessee submitted that reasons given by the assessee comes under reasonable cause for condonation of delay, and thus, appeal filed by the assessee may be admitted for hearing.

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3. The Id.Sr.DR, Shri AR.V.Sreenivasan, Addl.CIT, strongly opposing the petition filed by the assessee for condonation of huge delay, submitted that reasons given by the assessee are vague and unreasonable, which is evident from the fact that the assessee had filed e-return for the impugned assessment year and also represented her case before the AO and the Ld.CIT(A). Further, although, assessee claims that due to Covid-19, she could not come to Chennai, but fact remains that the appeal order passed in the month of September, 2019, and the same was communicated to the assessee on 01.10.2019, and during that period, Covid-19 was not at all present in India. Further, claim of the assessee that she was out of station during that period, is also not acceptable for the simple reasons, the assessee was very much available in India during said period. Therefore, Ld.DR submitted that there is no valid grounds for condonation of delay of 1161 days, and thus, appeal filed by the assessee should be dismissed as unadmitted.

4. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. Admittedly, appeal has been filed after delay of 1161 days. The assessee has filed a petition for condonation of delay along with affidavit explaining the reasons for delay in filing of the appeal. We have gone through the reasons given by the assessee for not filing the appeal within due date prescribed under the Act and after considering reasons given by the assessee, we find that

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said reasons does not come under reasonable cause as provided under the Act for condonation of huge delay of 1161 days in filing of the appeal. It is a well settled principle of law by the decisions of various courts, including the decision of the Hon'ble Supreme Court in the case of N. Balakrishnan vs M. Krishnamurthy reported in [1998] 7 SCC 123 held rules of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. A similar view has been expressed by the Hon'ble Supreme Court in the case of Collector, Land Acquisition v. Katiji, reported in [1987] 2 SCC 107, where although, the Hon'ble Supreme Court held that Courts must adopt liberal approach to condone the delay, but very categorically observed that it is for the assessee to explain each and every day of delay in filing of the appeal. In the present case, although, there is huge delay of 1161 days in filing of the appeal, but the assessee could not explain delay with valid reasons. Although, the assessee claims that she was not in Chennai during that period and further, she was not aware of order of the Ld.CIT(A), but fact remains that she was very much present in India during that period and further, she has presented her case before the AO and the Ld.CIT(A) with utmost care and diligence. From the above, it is undoubtedly clear that the assessee had taken a casual approach in pursuing her case before the appellate authority, even though, she was aware that she need to file the appeal as per the provisions of the Act within the limitation period provided under the statute. Therefore, we are of the considered view that reasons

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given by the assessee for delay in filing of the appeal does not come under reasonable cause for condonation of huge delay of 1161 days, and thus, we reject the petition filed by the assessee for condonation of delay and dismiss the appeal filed by the assessee as unadmitted.

5. In the result, appeal filed by the assessee is dismissed.

Order pronounced on the 30th day of October, 2023, in Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

Sd/-
(मंजूनाथा.जी)
(MANJUNATHA.G)
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,
दिनांक/Dated: 30th October, 2023.
TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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