

अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'B' 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.770/Chny/2023
निर्धारण वर्ष/Assessment Year: 2013-14

Varathsingh Jai Singh,
128, 5th Street, Cross Cut Road,
Gandhipuram, Coimbatore 641 012.

Vs. The Deputy Commissioner of
Income Tax,
Central Circle I,
Coimbatore.

[PAN: AKHPJ5413H]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri S. Sridhar, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri V. Nandakumar, CIT
सुनवाई की तारीख/ Date of hearing : 22.11.2023
घोषणा की तारीख /Date of Pronouncement : 22.11.2023

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) 16, Chennai, dated 30.03.2023 relevant to the assessment year 2013-14.

2. The appeal filed by the assessee is delayed by 30 days in filing the appeal, for which, the assessee has filed petition for condonation of the delay in support of an affidavit, to which; the Id. DR has not raised any serious objection. Consequently, since the assessee was prevented by

sufficient cause, the delay in filing of the appeal stands condoned and the appeal is admitted for adjudication.

3. When the appeal was taken up for hearing, the Id. Counsel for the assessee has pointed that the assessment order was passed in this case under section 143(3) r.w.s. 153A of the Income Tax Act, 1961 [“Act” in short] dated 29.06.2016. By order dated 30.03.2023, the Id. CIT(A) has noted that this appeal was inadvertently filed due to technical error with delay against order under section 143(1) of the Act and treated the same as defective and invalid. The grounds of appeal raised are dismissed as infructuous. The Id. CIT(A) has further noted that the order is passed under section 250 of the Act for the subject assessment year against order passed under section 143(3) r.w.s. 153A of the Act vide order No. ITBA/APL/M/250/2022-23/1051769119(1) stands and held that the appeal stands withdrawn for statistical purposes.

4. The Id. Counsel has further submitted that since the Id. CIT(A) has mistakenly noted that the assessment order was completed under section 143(1) of the Act and dismissed the appeal filed by the assessee, it was prayed that the appellate order may be set aside and directions may be given for fresh adjudication.

5. On the other hand, the Id. DR has not raised any objection.

6. Considering the facts and circumstances of the case and on perusal of the appellate order, we find that the Id. CIT(A) has mistakenly noted that the assessment was completed under section 143(1) of the Act and the appeal filed by the assessee has been dismissed as withdrawn. Therefore, we set aside the appellate order and remit the matter back to the file of the Id. CIT(A) for fresh adjudication in accordance with law after affording reasonable opportunities of being heard to the assessee.

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

Order pronounced in the open Court on 22nd November, 2023 at Chennai.

Sd/-
(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 22.11.2023

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.