

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A", HYDERABAD

BEFORE
SHRI RAMA KANTA PANDA, VICE PRESIDENT
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 566/Hyd/2023
(निर्धारण वर्ष / Assessment Year: 2021-22)

Venkateswara Varma Vs. Assistant Commissioner of
Gottimukkala, Income Tax,
Hyderabad Central Circle-1(2),
[PAN No. AARPG8207A] Hyderabad

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri P. Vinod, AR
राजस्व द्वारा/Revenue by: Shri Shakeer Ahamed, DR

सुनवाई की तारीख/Date of hearing: 03/01/2024
घोषणा की तारीख/Pronouncement on: 11/01/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 14/09/2023 passed by the learned Commissioner of Income Tax (Appeals)-11, Hyderabad ("Ld. CIT(A)"), in the case of Venkateshwara Varma Gottimukkala ("the assessee") for the assessment year 2021-22, assessee preferred this appeal.

2. At the outset, learned AR submitted that the learned CIT(A) refused to condone the delay of 111 days occurred in preferring the appeal, and also noted that the assessee did not co-operate with the first appellate

proceedings. He submitted that the Assistant misplaced papers and that is the reason why, the delay occurred. Learned AR also submitted that there are no mala fides in the delay and the reason submitted by the assessee was true and genuine. He further submitted that on two occasions adjournments were sought and granted, but subsequently the dates of hearing were not known to the assessee resulted in his not appearing before the learned CIT(A). According to the learned AR because the learned CIT(A) refused to condone the delay and proceeded ex parte, the order is an ex parte one and the assessee could not present his case effectively, and no proper enquiry was caused. He submitted that given an opportunity, assessee is ready to submit all the material before the learned CIT(A) and to co-operate with the appellate proceedings.

3. Per contra, learned DR submitted that plea of misplacement of record by the assistant does not constitute sufficient reason to condone the delay, and also the reasons for non-appearance of the assessee before the learned CIT(A) are not properly explained. According to him, law does not help the persons, who sleep over the matters.

4. We have gone through the record in the light of the submissions made on either side. It is a fact that the assessee pleaded before the learned CIT(A) that the delay occurred due to misplacement of record by the Assistant and also that the assessee was represented before the learned CIT(A) on two occasions. It is not the case of the Revenue that the assessee had any intentions in preferring the appeal with delay. There is no reason not to believe the explanation submitted by the assessee for the delay.

5. Having regard to the facts and circumstances of the case, we are of the considered opinion that giving an opportunity to the assessee will be in the interest of justice and, therefore, we set aside the impugned order and restore the matter to the file of the learned CIT(A) for taking a view according to law on merits, after hearing the assessee. We make it clear that it is the last opportunity for the assessee to get the matter disposed of on merits.

6. In the result, appeal of assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on this the 11th day of January, 2024.

Sd/-
(RAMA KANTA PANDA)
VICE PRESIDENT

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 11/01/2024

TNMM

Copy forwarded to:

1. Venkateswara Varma Gottimukkala, Flat No. 201, D Block, Adithya Hilltop, Road No. 82, Jubilee Hills, Hyderabad.
2. Asst. Commissioner of Income Tax, Central Circle-1(2), Hyderabad.
3. Pr.CIT(Central)-Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ITAT, HYDERABAD