

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

जस्टिस श्री चंद्रकांत वसंत भडंग, अध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष

**BEFORE Mr.JUSTICE (RETD.) C.V. BHADANG, PRESIDENT
AND SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 1305/Chny/2023

निर्धारण वर्ष / Assessment Year: 2010-11

C. Ramasamy Gounder HUF,
3/112, Pudukkottai Palayam,
Nathakkadaiyur Kangayam,
Erode – 638 701.

Income Tax Officer
v. Ward 1(5),
Tirupur.

[PAN: AACHC-1186-M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. Arjunraj, CA for
Shri. S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 23.01.2024

घोषणा की तारीख/Date of Pronouncement

: 23.01.2024

आदेश /ORDER

PER MANJUNATHA. G, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 13.10.2023 and pertains to assessment year 2010-11.

2. The brief facts of the case are that the assessee, an individual had not filed return of income for the assessment year 2010-11. As per the information available with the

Department, it is found that the assessee had deposited cash of Rs. 14,00,000/- into Vijaya Bank, Kangeyam, during the financial year 2009-10 relevant to assessment year 2010-11. Since, the appellant is non-filer, the case was reopened u/s. 147 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") and notice u/s. 148, dated 31.03.2017 was issued to the assessee by affixture on 08.11.2019. The assessee neither filed his return of income nor justified source for cash deposits. Therefore, the Assessing Officer passed best judgment assessment u/s. 144 r.w.s. 147 of the Act, on 16.12.2019 and made addition of Rs. 14,08,353/- towards cash deposits into bank account.

3. Aggrieved by the assessment order, the assessee preferred an appeal before the Id. CIT(A) on 24.05.2022, with a delay of 857 days. The appellant has filed a petition for condonation of delay along with reasons for delay in filing of appeal. According to the Ld. Counsel for the assessee, out of total delay of 857 days, 56 days delay is before Covid period and balance 801 days delay is covered by Covid period. The assessee is a senior citizen and was residing with his daughter in a different address. The notice issued by the Assessing

Officer and as well as the Id. CIT(A) was not noticed by the assessee. Therefore, the assessee submitted that there is a reasonable cause for not filing appeal within due date under the Act and thus, prayed for condonation of delay. The Id. CIT(A) after considering relevant petition filed by the assessee dismissed the appeal without condoning the delay by holding that, reasons given by the assessee for condonation of delay of 857 days is not sufficient and thus, dismissed appeal filed by the assessee without admitting. Aggrieved by the Id. CIT(A) order, the assessee is in appeal before us.

4. The Ld. Counsel for the assessee, Shri. Arjunraj, CA, submitted that, the Id. CIT(A) dismissed appeal filed by the assessee un-admitted for delay in filing of appeal without appreciating fact that the assessee has explained reasons for not filing appeal within due date allowed under the Act. The Ld. Counsel for the assessee, referring to the assessment order dated 16.12.2019 and petition filed before the Id. CIT(A) for condonation of delay submitted that, the assessee is a senior citizen aged about 76 years was not living in his permanent residential address. The notice issued by the Department was not served to the assessee, which is evident

from affixture of notice to the given address of the appellant. From the above, it is clear that the assessee was not aware of order passed by the Assessing Officer and immediately after noticing the assessment order passed by the Assessing Officer, the assessee took steps to file appeal which caused delay of 857 days. Out of 857 days, more than 800 days is covered by Covid period and during that period the assessee could not attend his income-tax proceedings. Therefore, he submitted that delay in filing of appeal before the Id. CIT(A) may be condoned and appeal may be set aside to the file of the Id. CIT(A) to give another opportunity of hearing to the assessee.

5. The Id. DR present for the revenue, strongly supporting the order of the Id. CIT(A) submitted that although the assessee claims to have residing in a different address, but could not file any evidence. Further, it is for the assessee to be vigilant in his tax matters. Since, the assessee is not representing his case before the authorities with utmost care, the Id. CIT(A) was right in dismissing the appeal filed by the assessee for delay in filing of appeal and their order should be upheld.

6. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. Admittedly, there is a delay of 857 days in appeal filed before the first appellate authority. Out of total delay of 857 days, 56 days delay is before Covid period and this, delay needs to be explained by the assessee with sufficient cause. The remaining period of 801 days is covered by Covid period and which is exempt by an order passed by Hon'ble Supreme Court in Writ Petition No.3 of 2020. The assessee explained the reasons for delay in filing of appeal before the Id. CIT(A). According to the Ld. Counsel for the assessee, the assessee is a senior citizen and was not residing in his permanent residential address due to his old age. The notice issued by the Department was not served to the assessee. Even the order passed by the Id. CIT(A) was gone un-noticed, because the assessee was not residing in his permanent address. Further, the assessee has taken steps to file appeal immediately after noticing the order passed by the Assessing Officer. But, in the mean time, Covid has started which disturbed the normal life of people. Since, the assessee is a senior citizen, he could not take steps to file appeal during Covid period. In our considered view, reasons given by the

assessee in petition filed before the Id. CIT(A) for condonation of delay appears to be bonafide and genuine. Therefore, we are of the considered view that the Id. CIT(A) ought to have condoned the delay in filing of appeal to advance substantial justice. Since, the appellant has explained reasons for not filing appeal before the Id. CIT(A) and said reasons does come under reasonable cause, we direct the first appellate authority to condone the delay in filing of appeal and admit the appeal for hearing and decide the issues involved on merit, after providing reasonable opportunity of hearing to the assessee.

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

Order pronounced in the court on 23rd January, 2024 at Chennai.

Sd/-

(जस्टिस चंद्रकांत वसंत भडंग)

(JUSTICE (RETD.) C.V. BHADANG)

अध्यक्ष/**PRESIDENT**)

Sd/-

(मंजुनाथ. जी)

(MANJUNATHA. G)

लेखा सदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated: 23rd January, 2024

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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