

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.: 1294/Chny/2023

निर्धारण वर्ष / Assessment Year: 2016-17

Venkatesan Ramaiah,  
#1, Rajammal Street,  
Shenoy Nagar,  
Chennai – 600 030 .

**[PAN: AABPV-0386-M]**

(अपीलार्थी/Appellant)

Income Tax Officer  
v. Non Corporate Ward -10(5),  
6<sup>TH</sup> Floor, Wanaparthly Block,  
Aayakar Bhavan, 121, M.G.  
Road, Chennai – 600 034.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. Anand Babunath, CA

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 / O R D E R**

**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 29.05.2023 and pertains to assessment year 2016-17.

2. At the outset, we find that there is a delay of 112 days in appeal filed by the assessee, for which a petition for condonation of delay along with affidavit explaining reasons for delay has been filed. The Ld. Counsel for the assessee, referring the petition filed by the assessee submitted that the Id. CIT(A) has passed the order on 29.05.2023 and the same was communicated through e-mail, but the communication sent by the Id. CIT(A) not received by the assessee. Further, on 06.11.2023, the appellant has checked the status of appeal before the Id. CIT(A) and he, came to know that the appeal order has been passed on 29.05.2023 itself. Thereafter, the appellant has taken steps to file appeal before the Tribunal and in the process, there is a delay of 112 days. The delay in filing of appeal is neither intentional nor to derive any undue benefit, but purely beyond the control of the assessee and thus, delay may be condoned in the interests of justice.

3. The Id. DR present for the revenue, opposing petition filed by the assessee submitted that the reasons given by the appellant for delay in filing of appeal does not come under the reasonable cause as provided under the Act for condonation of

delay and thus, delay in filing of appeal should not be condoned.

4. We have heard both the parties and considered reasons given by the appellant for delay in filing of appeal. After considering relevant reasons given by the appellant, we find that the reasons given by the appellant for not filing the appeal within due date prescribed under the Act, does come under reasonable cause for condonation of delay and thus, we condone the delay in filing of appeal and admit the appeal filed by the appellant.

5. The brief facts of the case are that, the assessee has e-filed his return of income for assessment year 2016-17 on 20.07.2016, declaring total income of Rs. 10,25,610/- and agricultural income of Rs. 2,05,000/-. The case was selected for scrutiny under CASS to verify deduction from capital gains. During the course of assessment proceedings, the assessee was specifically asked to furnish the details of land for which the proprietary concern M/s. SJS Bricks and his partnership firm M/s. Shree Jayasarathy Brick Works are located. The Assessing Officer also called upon the assessee to file

necessary evidences to prove eligibility for claiming deduction u/s. 54B of the Income-tax Act, 1961 (hereinafter referred to as "the Act"). Since, the assessee could not file necessary evidences, the Assessing Officer rejected deduction claimed u/s. 54B of the Act and made additions of Rs. 4,32,51,282/- towards long term capital gains derived from transfer of lands.

6. The Ld. Counsel for the assessee, referring to e-proceedings Response Acknowledgement submitted that, the Id. CIT(A) issued notice on 16.05.2023 and fixed the date of hearing on 29.05.2023. The appellant has filed written submissions along with paper book with annexures on 29.05.2023, but the Id. CIT(A) disposed off appeal filed by the assessee on 29.05.2023 at 3:26 PM, without considering written submissions filed by the assessee. Therefore, Ld. Counsel for the assessee, submitted that the appeal may be set aside to the file of the Id. CIT(A) to give one more opportunity of hearing to the assessee.

7. The Id. DR present for the revenue, supporting the order of the Id. CIT(A) submitted that the appeal may be disposed off in accordance with law.

8. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. We find that although the Id. CIT(A) has fixed the appeal for hearing on 29.05.2023, but passed order on very same day i.e., on 29.05.2023 at 3:26 PM, without considering written submissions filed by the assessee on 29.05.2023, which is evident from e-proceedings Response Acknowledgment filed by the assessee. In our considered view, the Id. CIT(A) has disposed off appeal filed by the assessee without considering written submissions, in violation of principle of natural justice. Therefore, we are of the considered view that the issue needs go back to the file of the Id. CIT(A) to give another opportunity of hearing to the assessee. Thus, we set aside the order passed by the Id. CIT(A) and restore the issue to the file of the Id. CIT(A) with a direction to reconsider the issue after providing reasonable opportunity of hearing to the assessee. Needless to say, the assessee shall appear before the Id. CIT(A) and file necessary details without seeking further adjournments.

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

Order pronounced in the court on 23<sup>rd</sup> 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: 23<sup>rd</sup> 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