

आयकर अपीलीयअधिकरण, विशाखापटणम पीठ, विशाखापटणम

IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM

श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER &
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER
(Through Hybrid Hearing)

आयकर अपील सं./ I.T.A. No.29/Viz/2020

(निर्धारण वर्ष / Assessment Year :2012-13)

Venugopal Nimmagadda,
Vijayawada.
PAN: ADAPN 2791 A

(अपीलार्थी/ Appellant)

Vs. Deputy Commissioner of
Income Tax,
Circle-1(1),
Vijayawada.

(प्रत्यर्थी/ Respondent)

आयकर अपील सं./ I.T.A. No.30/Viz/2020

(निर्धारण वर्ष / Assessment Year : 2012-13)

Ramakrishna Nimmagadda,
Vijayawada.
PAN: ADDPN 5737 F

(अपीलार्थी/ Appellant)

अपीलार्थी की ओर से/ Assessee by

प्रत्यर्थी की ओर से / Revenue by

Vs. Deputy Commissioner of
Income Tax,
Circle-1(1),
Vijayawada.

(प्रत्यर्थी/ Respondent)

Sri M. Madhusudan, AR

Dr. Satyasai Rath, CIT-DR

सुनवाई की तारीख / Date of Hearing

घोषणा की तारीख/Date of
Pronouncement

: 06/02/2024

: 13/02/2024

ORDER

PER S. BALAKRISHNAN, Accountant Member :

The captioned two appeals are filed by the assesseees against the orders of the Ld. Commissioner of Income Tax (Appeals)-Vijayawada [CIT(A)] in ITA No. 151/CIT(A)/VJA/2015-16, dated 22/09/2016 [in the case of Sri Nimmagadda Venu Gopal] and in ITA No. 150/CIT(A)/VJA/2015-16, dated 22/09/2016 [in the case of Sri Nimmagadda Ramakrishna] arising out of the orders passed U/s. 143(3) of the Income Tax Act, 1961 [the Act] for the AY 2012-13.

2. At the outset, we noticed from the record that there is a huge delay of 1155 days in filing both the appeals before the Tribunal. Before us, the assessee has filed petition enclosing the affidavit seeking condonation of delay along with Medical Certificate and other documents. At the outset, the Ld. Authorized Representative [AR] submitted that the delay in filing the appeals was happened due to medical treatment undergone by Sri Rama Krishna Nimmagadda who is taking care of the income tax filings of Sri Venugopal Nimmagadda. In support of his submission, the Ld. AR submitted various medical

prescriptions and pleaded that the delay in filing both the appeals may be condoned.

3. Per contra, the Ld. Departmental Representative strongly objected to the condonation of delay and stated that Sri Rama Krishna Nimmagadda was diagnosed ill and because of that reason the delay of 1155 days in filing both the appeals before the Tribunal cannot be justified. The Ld. DR also pointed out that the medical treatment to the assessee's brother Sri Rama Krishna Nimmagadda was stopped in the year 2019 itself whereas the appeal was filed on 22/1/2020. He therefore pleaded that the delay in filing the appeals should not be condoned as it is without any valid reason.

4. We heard both the sides and perused the material available on record. In these cases, the Ld. CIT(A) orders were passed on 22/09/2016 and they were received by the assessees on 24/09/2016. The due date for filing the appeals before the Tribunal is 23/11/2016. However, the appeals were filed by the assessees on 22/1/2020 with a delay of 1155 days. With respect to the condonation of delay in filing the appeals belatedly before the Tribunal, we find merit in the argument of the Ld. DR. As stated by the Ld. DR it is not a reasonable cause / sufficient

reason to state that the delay in the case of Sri Venugopal Nimmagadda was occurred due to the reason that his brother Sri Rama Krishna Nimmagadda has been diagnosed ill, and since he was looking after the income tax matter, the appeal could not be filed within the prescribed time limit before the Tribunal. Further, no evidence was provided by the Ld. AR for continuous prolonged sickness regarding the serious ailments as claimed in the affidavit in the case of Sri Rama Krishna Nimmagadda. Further, in his written submissions, the Ld. AR also mentioned that Sri Venugopal Nimmagadda has undergone surgical treatment in the year 2011 and was treated as out-patient from 2011 onwards. The above reasons mentioned by the Ld. AR in the case of Sri Rama Krishna Nimmagadda as well as his brother Sri Venugopal Nimmagadda cannot constitute a sufficient / reasonable cause warranting a huge delay of 1155 days in filing the appeals before the Tribunal. We therefore find that there is no sufficient / reasonable cause in filing the appeals of Sri Rama Krishna Nimmagadda and Venugopal Nimmagadda before the Tribunal with a huge delay of 1155 days and hence we are inclined to reject the petition seeking for condonation of delay. Thus, since the delay in both the appeals is not condoned, these

appeals filed by the assesseees are not maintainable and therefore they are dismissed in limine.

5. In the result, both the appeals of the assesseees are dismissed.

Pronounced in the open Court on 13th February, 2024.

Sd/-

(दुव्वूरु आर. एल रेड्डी)

(DUVVURU RL REDDY)

न्यायिकसदस्य/JUDICIAL MEMBER

Sd/-

(एस बालाकृष्णन)

(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

Dated :13.02.2024

OKK - SPS

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee – (i) Venugopal Nimmagadda, D.No.21-10-29, 2nd Lane, Flat No.101, Anu Heights, Srinagar Colony, Satyanarayanapuram, Vijayawada, Andhra Pradesh-520011. (ii) Ramakrishna Nimmagadda, D.No. 21-10-29, 2nd Lane, Flat No.101, Anu Heights, Srinagar Colony, Satyanarayanapuram, Vijayawada, Andhra Pradesh-520011.
2. राजस्व/The Revenue – Deputy Commissioner of Income Tax, Circle-1(1), The Central Revenue Building, Opp. PWD Grounds, MG Road, Vijayawada, Andhra Pradesh – 520002.
3. The Principal Commissioner of Income Tax,
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam