

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

श्री महावीर सिंह, उपाध्यक्ष के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT**

आयकर अपीलसं./I.T.A.1246/CHNY/2023  
निर्धारण वर्ष/Assessment year : 2011-2012

Smt. Natarajan Priya,  
94/50, Rasi Traders,  
Mariamman Koil Street,  
Ponnammapet,  
Salem 636 001.

**Vs.** The Income Tax Officer,  
Ward 1(1)  
Salem.

[PAN AMXPP 7611F]

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओ से /Respondent by

: Shri S. Sridhar, Advocate  
: Shri ARV Sreenivasan, Addl CIT

सुनवाई की तारीख/Date of Hearing

: 19.02.2024

घोषणा की तारीख /Date of Pronouncement

: 19.02.2024

**आदेश/ ORDER**

This appeal by assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Order No.ITBA/NFAC/S/250/2021-22/1034538718 (1) dated 30.07.2021. The assessment was framed by the Income Tax Officer, Ward 1(1), Salem for the assessment year 2011-12, u/s.143(3) of the Income Tax Act, 1961 (in short 'the Act) vide order dated 26.03.2014.

2. At the outset, it is noticed that this appeal is time barred by 771 days and defect was notified to the assessee and going by the same assessee filed condonation petition alongwith affidavit stating the reasons. Assessee filed affidavit dated 02.11.2023 which states as under:-

*‘‘I, Natarajan Priya, the above mentioned appellant/petitioner, do hereby solemnly affirm and sincerely state on oath as under:*

*1) That the appellant/petitioner received the order under section 250 of the Income Tax Act, 1961 for the assessment year 2011-12 on 30/07/2021;*

*2) That, as per the said order, it was found that the appeal filed on 08/05/2014 against the assessment under section 143(3) dated 25/03/2014 was dismissed;*

*3) The appeal against the impugned order u/s.250 of the Income Tax Act, 1961, ought to have been filed on or before 28/09/2021, is now filed for the Asst. Year 2011-12 with a delay of 766 days;*

*4) The appellant prays that the delay of 243 days up to 29/05/2022 is covered by the decision of the Supreme Court dt. 10/01/2022 and the delay of 523 days is on account of the fact that the husband of the appellant/petitioner was not well and was undergoing treatment for several years. Copy of the Medical Certificate is attached herewith.*

*5) That the appellant/petitioner does not stand to gain nor does it have any intention to jeopardize the interest of the revenue by delayed filing of the appeal.*

*In view of the above, it is submitted that the delay be condoned, appeal be admitted and considered and justice be rendered.*

*Sd/-  
DEPONENT’’*

Ld Counsel for the assessee drew my attention to para 4 of the affidavit and stated that out of total 771 days, the delay of 243 days is covered by the decision of Hon’ble Supreme Court dated 10.01.2022 upto 29.05.2022. Ld. Counsel for the assessee explained that the balance of 523 days is on account of illness of assessee’s husband who was not well and had

undergone treatment for several years. Ld. Counsel for the assessee drew my attention to documentary evidences enclosed with appeal memo starting from pages 55 to 95 wherein medical papers of assessee's husband were enclosed, in which disease mentioned as under:-

*'A case of ankylosing spondy litis, was admitted for Inj. Remicade IV infusion. H/o Pain in shoulder, No. H/o Symptoms related to eyes, bowel, bladder and skin'.*

From the medical papers submitted from pages 55 to 95, it is noticed that they are pertaining to the year 2010-2011 and not pertaining to the period under consideration. When it was pointed out to the assessee counsel that these papers has no relevance to the current period which is under limitation. However, Ld. Counsel for the assessee was only harping on the illness of the assessee's husband.

**3.** On the other hand, Id. Senior Departmental Representative Shri. ARV Sreenivasan, pointed out from the assessment order that the same is dated 26.03.2014 relevant to assessment year 2011-2012 and drew my attention to page 3 of the assessment order which states that assessee's husband Shri. K. Saravanan has attended hearing before the Assessing Officer on 26.02.2014 and admitted that assessee was not in a position to furnish the details of vouchers for the land development expenditure which was disallowed by the Assessing Officer. Hence, the Id. Senior Departmental Representative stated that delay is not attributable to assessee's husband illness which was during the financial year 2010-2011.

He stated that much after that period assessee's husband attended hearing before the Assessing Officer, that means according to the Id. Senior DR assessee's husband was perfectly alright and moreover according to him, assessee is healthy and she could have filed appeal and ultimately the appeal was filed by her only. Further, the Id. Senior DR also argued that assessee cannot take shelter of judgment of Hon'ble Supreme Court extending the condonation upto 29.05.2022 for a reason that assessee should have filed the appeal immediately after expiry of 29.05.2022 or within a reasonable time

**4.** In reply, Ld. Counsel for the assessee could not argue anything.

**5.** I have heard rival contentions and gone through facts and circumstances of the case. I noted that an appellate order was passed by the Id. CIT(A) on 30.07.2021 and was received by the assessee on 30.07.2021. The appeal before the Tribunal was to be filed on or before 20.09.2021 but actually the appeal was filed only on 08.11.2023 thereby there is a delay of 771 days in filing the appeal. I have gone through the medical papers of assessee's husband and noted that at page 55 he was first discharged on 19.06.2010 and the last page is at 95 which is dated 07.10.2011. As pointed out by the Id. Senior Departmental Representative assessee's husband attended before the Assessing Officer on various dates including 26.02.2014 and he signed the order sheet entry on that very date i.e. 26.02.2014. Relevant order sheet is reproduced at assessment

order at page 4. Even otherwise, it is inordinate delay and assessee could not produce any reasonable cause rather illness of assessee's husband which does not stand because of time lag. Assessee's husband was no doubt was ill from 19.06.2010 to 07.10.2011 as per documentary evidences and after that assessee's husband attended proceedings before the Assessing Officer. This fact was not been disproved by the Ld. Counsel for the assessee and hence I am not inclined to condone the delay and hence the appeal of the assessee is dismissed in limine.

6. In the result, the appeal of the assessee in ITA No.1246/Chny/2023 for assessment year 2011-2012 stands dismissed.

Order pronounced in the open court at the time of hearing on 19<sup>th</sup> day of February, 2024, at Chennai.

Sd/-  
(महावीरसिंह )  
**(MAHAVIR SINGH)**  
उपाध्यक्ष/VICE PRESIDENT

चेन्नई/Chennai

दिनांक/Dated: 19.02.2024.

**KV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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