

**आयकरअपीलीयअधिकरण, 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**

**आयकर अपील सं./I.T.A.No.306/Viz/2023  
(निर्धारण वर्ष / Assessment Year : 2016-17)**

**Bantu Pilli Govindarao  
1-276, Vemulavalasa  
BPV Kallalu, Anandapuram  
Visakhapatnam  
[PAN : ALIPG7088F]  
(अपीलार्थी/ Appellant)**

**Vs. Joint Commissioner of  
Income Tax  
Range-2  
Visakhapatnam  
(प्रत्यर्थी/ Respondent)**

अपीलार्थी की ओर से/ Appellant by : Shri G.V.N.Hari, AR  
प्रत्यर्थी की ओर से / Respondent by : Dr.Aparna Villuri, DR  
सुनवाई की तारीख / Date of Hearing : 20.02.2024  
घोषणा की तारीख/Date of Pronouncement : 28.02.2024

**आदेश /O R D E R**

**Per Shri Duvvuru RL Reddy, Judicial Member :**

**Condonation of Delay :**

This appeal is filed by the assessee against the order of Commissioner of Income Tax (Appeals) [CIT(A)], National Faceless Appeal Centre (NFAC), Delhi in DIN & Order No. ITBA/NFAC/S/250/2023-24/1055143485(1) dated 16.08.2023, arising out of order passed u/s 271 of the Income Tax Act, 1961 (in short 'Act') dated 30.05.2022 for the Assessment Year (A.Y.) 2016-17 with the delay of 60 days. The assessee filed petition for condonation of delay, submitting that the assessee is not educated and not

having knowledge of using a computer, hence, engaged a part time accountant to receive or send mails, who gave his id at the time of filing of return for the A.Y.2020-21. The assessee further submitted that he did not even know that email details are to be furnished and that the accountant gave his email id. As such the assessee was not aware of the notices issued during the penalty proceedings and came to know about the penalty order dt.30.05.2022 only when recovery proceedings were initiated. The assessee filed appeal against the penalty order with the help of an auditor and got the email id updated with his son's email id in the income tax portal on 21.01.2023. However, the assessee did not receive any hearing notices. The assessee was not aware of the order passed by the Ld.CIT(A) on 16.08.2023 as he did not get any mail. When the assessee contacted the auditor on 01.12.2023 to find out the status of the appeal, it was found that the Ld.CIT(A) passed the order on 16.08.2023. On further verification, it was noticed that only two notices dated 24.07.2023 and 01.08.2023 were issued and were sent to the old email account belonging to the part time accountant. Without further delay, the assessee took necessary steps and filed appeal on 14.12.2023. The assessee submitted that the delay in filing the appeal is neither intentional nor deliberate on account of the reasons explained above which were beyond the control of the assessee. The

assessee, therefore, pleaded to condone the delay and admit the appeal for hearing.

2. We have gone through the condonation petition filed by the assessee before us. In the instant case, the order of the Ld.CIT(A) was served on the assessee on 16.08.2023 and the appeal ought to have been filed before the Tribunal by the assessee on or before 15.10.2023. However, the appeal could be filed by the assessee on 14.12.2023, resulting in a delay of 60 days. We find that there is a reasonable cause for the assessee to file the appeal belatedly with the delay of 60 days. We, therefore, condone the delay and admit the appeal for hearing in the interest of justice.

3. Brief facts of the case are that the assessee had made transactions for sale of immovable properties and accepted cash in contravention of provisions of section 269SS of the Act. Therefore, a penalty of Rs.55,91,500/- was imposed u/s 271D of the Act by the Jt.Commissioner of Income Tax(JCIT/AO), Range-2, Visakhapatnam on 30.05.2022. Aggrieved by the order passed, the assessee preferred an appeal before the CIT(A) and the Ld.CIT(A) upheld the order passed and confirmed the addition made by the AO and dismissed the appeal of the assessee ex-parte as the assessee failed to comply with the notices to substantiate his claim.

4. Aggrieved by the order of the Ld.CIT(A), the assessee preferred an appeal before the Tribunal by raising the following grounds of appeal :

1. *The order of the learned Commissioner of Income Tax(Appeals) is contrary to the facts and also the law applicable to the facts of the case.*

2. *The learned Commissioner of Income Tax (Appeals) is not justified in dismissing the appeal ex parte without granting reasonable opportunity.*

3. *The learned Commissioner of Income Tax(Appeals) ought to have cancelled the penalty of Rs.55,91,500 levied u/s 271D of the Act.*

4. *Any other grounds may be urged at the time of hearing.*

5. The only contention of the assessee is that that the assessee is not given reasonable opportunity and the Ld.CIT(A) is not justified in upholding the order passed by the AO and disposing off the appeal ex-parte. The Ld.AR, therefore, pleaded to afford one more opportunity of being heard before the Ld.CIT(A) to substantiate assessee's case in the interest of justice and direct the Ld.CIT(A) to pass order on merits after appreciating the facts of the case.

7. Per contra, the Ld.DR argued that the assessee was given sufficient opportunities but the assessee did not avail the same. The Ld.DR, therefore, pleaded to uphold the order of the Ld.CIT(A) and dismiss the appeal of the assessee.

8. We have heard both the parties and perused the material available on record. It is evident that the appeal of the assessee was dismissed ex-parte

before the Ld.CIT(A) as there was no compliance from the assessee to the notices issued and served on the assessee. The Ld.AR contended that the assessee did not receive any notices and he was not given sufficient opportunities to substantiate his case and therefore, pleaded for another opportunity of being heard before the Ld.CIT(A). In view of the foregoing facts and circumstances of the case and keeping in view the principles of natural justice, we are inclined to remit the matter back to the file of the Ld.CIT(A) and direct the Ld.CIT(A) to afford the assessee, another opportunity of being heard before the Ld.CIT(A) and to pass order on merits. The assessee is also directed to adhere to the notices issued by the Ld.CIT(A) and furnish relevant material evidences to substantiate his case. Accordingly, the grounds filed by the assessee are allowed for statistical purpose.

9. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 28<sup>th</sup> February,2024.

Sd/-

(एस बालाकृष्णन)  
(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER

Dated : 28.02.2024

L.Rama, SPS

Sd/-

(दुव्वूरु आर.एल रेड्डी)  
(DUVVURU RL REDDY)

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

1. निर्धारिती/ The Assessee- Shri Bantu Pilli Govindarao, 1-276,Vemulavalasa BPV Kallalu, Anandapuram, Visakhapatnam
2. राजस्व/The Revenue – The Joint Commissioner of Income Tax, Range-2, Income Tax Office, Infinity Towers, Sankaramatam Road, Visakhapatnam
3. The Principal Commissioner of Income Tax, Visakhapatnam
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR,ITAT, Visakhapatnam
- 5..गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam