

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD

BEFORE
SHRI RAMA KANTA PANDA, VICE PRESIDENT
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 138/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2016-17)

Mohd. Abdul Majeed Afsar, Hyderabad [PAN No. BOOPA9217E]	Vs. Income Tax Officer, Ward-11(3), Hyderabad
अपीलार्थी / Appellant	प्रत्यर्थी / Respondent

निर्धारिती द्वारा / Assessee by: Shri Kumar Pal Tated, AR
राजस्व द्वारा / Revenue by: Ms. Sheetal Sarin, DR

सुनवाई की तारीख/Date of hearing: 04/04/2024
घोषणा की तारीख/Pronouncement on: 04/04/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 11/08/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Mohammed Abdul Majeed Afsar ("the assessee") for the assessment year 2016-17, assessee preferred this appeal.

2. At the outset, we noticed that assessee preferred this appeal with a delay of 128 days. In this connection, assessee filed an affidavit, explaining the reasons for the delay, and prayed that delay in filing the appeal is due to his old age of about 80 years and was suffering from severe health issues for the past few months and also hospitalized. It is further pleaded on behalf of the assessee that during the first appellate proceedings, the report of the valuation officer was sought and the assessee was waiting for such report. Subsequently he came to know that the appeal was disposed of even before the receipt of the valuation report. According to him, due to this reason he could not prosecute the first appellate proceedings and also the delay occurred in filing this appeal. Hence, he prayed that the delay in filing the appeal is unintentional and inadvertent due to the circumstances beyond his control. There is no reason as to why this explanation of the assessee cannot be accepted.

3. Learned DR vehemently opposed the request made on behalf of the assessee on the ground that more than sufficient opportunity was granted by the Revenue authorities, but without availing the same, it is not open for the assessee now to seek one more opportunity. According to learned DR, if such a request is granted, it would lead to never ending process.

4. We have gone through the record in the light of the submissions made on either side. There is nothing on record to controvert the submission made on behalf of the assessee that the assessee is aged about 80 years or that during the first appellate proceedings, valuation report was sought, but the first appeal was disposed of, before that valuation report was received. There is nothing for us not to believe the submission

that it is only after the valuation report was received and came to know that the appeal was disposed of.

5. Having regard to the facts and circumstances of the case, we are of the considered opinion that it would be in the interest of justice to afford an opportunity for the assessee to produce all the evidences available to justify his claim. We are of the opinion that the highest that would happen by affording an opportunity to the assessee to prosecute its appeal before the learned Assessing Officer, by submitting the evidence, is that a cause could be decided on merits. When the technicalities are pitted against the delivery of substantial justice, the former must give way to the latter.

6. With this view of the matter, while setting aside the impugned order and restoring the appeal to the file of the learned Assessing Officer, we direct the assessee to co-operate with the learned Assessing Officer in getting the matters disposed of on merits, without seeking any adjournments and the learned Assessing Officer to take a fresh look at the matter, after affording a reasonable opportunity to the assessee of being heard. We order accordingly.

7. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on this the 4th day of April, 2024

Sd/-
(RAMA KANTA PANDA)
VICE PRESIDENT

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad, Dated: 04/04/2024

TNMM

Copy forwarded to:

1. Mohd. Abdul Majeed Afsar, H.No. 8-7-164, HAL Colony,
Old Bowenpally, Hyderabad.
2. Income Tax Officer, Ward-11(3), Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD