

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' (SMC) BENCH : CHENNAI

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

आयकर अपील सं./I.T.A. No.1508/CHNY/2023
निर्धारण वर्ष/Assessment year : 2017-2018.

Shamlal Company India Pvt Ltd, **Vs.** The Deputy Commissioner of
31/26, Sagadevapuram Income Tax,
Extension, Circle 1(1)
Salem Salem.

[PAN AAICS 4385D]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri. T.S.Lakshmi Venkatraman,
C.A.

प्रत्यर्थी की ओर से /Respondent by : Shri D. Hema Bhupal, IRS, JCIT

सुनवाई की तारीख/Date of Hearing : 22.02.2024

घोषणा की तारीख /Date of Pronouncement : 22.02.2024

आदेश/ ORDER

This appeal by assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi in Order No.ITBA/NFAC/S/250/2023-24/1056099829 (1), dated 14.09.2023. The assessment was framed by the Deputy Commissioner of Income Tax, Circle 1(1), Salem for the assessment year

2017-2018, passed u/s.143(3) of the Income Tax Act, 1961 (in short 'the Act') vide order dated 22.12.2019.

2. At the outset, it is noticed that the appeal filed by the assessee is barred by limitation by 35 days. The order of CIT (A) dated 14.09.2023 was communicated to the assessee on 14.09.2023 as per Form 36. The appeal has to be filed on or before 13.11.2023 but was filed only on 18.12.2023. The assessee has filed affidavit for condonation of delay stating the following reasons:

'4) The delay of 35 days in filing the above appeal happened because of the following reasons:

a) My father Mr.Desraj Bajaj aged about 89 years, who is also a Director of the above company was on cardiac treatment during the month of November 2023 and a certificate dated 10.02.2024 given by our family Cardiologist is enclosed (Encl-1). I am managing the business affairs of the above company and since I was attending to the treatment of my aged father I could not contact my Chartered Accountant Sri.T.S.Lakshmivenkataraman, Salem for drafting the grounds of appeal to be filed before Income Tax Appellate Tribunal, Chennai Benches and for filing of the same.

b) Apart from the above factor the concept of "Real Time alert" is not available in the National Faceless Appeal Scheme. The above concept has not been inducted into the National Faceless Appeal Scheme, 2023 and hence neither the appellant nor his authorized representative had been served with any notices vide email or to their mobile.

c) The small delay of 35 days in filing the appeal is neither willful nor wanton”.

When these facts were confronted to Id. Senior Departmental Representative, he objected for condoning the delay. I find the cause as reasonable and hence, condone the delay and admit the appeal.

3. At the outset, Id.Counsel for the assessee took me through the order of the Id. CIT(A) consisting of twelve pages and stated that first of all it was ex-parte order. Although in the appellate order it is noted that hearing notices were sent to assessee but there is no response to the same even though five notices were issued to the assessee as noted by the Id. CIT(A). Further, Id Counsel took me to the order of the Id. CIT(A) and stated that apart from reproducing the order of the Id. Assessing Officer, there is no adjudication at all by the Id. CIT(A). When the order of the Id. CIT(A) was confronted to the Id. Senior Departmental Representative he could not state anything except the matter can be remitted back to the file of the Id. CIT(A) for adjudication.

4. I have heard the rival contention and perused the material on record. I noted from the order of the Id. CIT(A) that there is no adjudication at all by the Id. CIT(A) except reproducing the Id. Assessing Officer order. I fail

to understand what I have to decide when there is not even a word written by the Id. CIT(A). Hence, I set aside the order of CIT(A) and remit the matter back to his file with a direction to adjudicate the issue and decide in accordance with law. In term of the above, the appeal of the assessee is allowed for statistical purposes.

5. In the result, the appeal of the assessee in ITA No.1508/Chny/2023 for assessment year 2017-2018 is allowed for statistical purposes.

6. Order pronounced in the open court at the time of hearing on 22nd day of February, 2024, at Chennai.

Sd/-

(महावीरसिंह)

(MAHAVIR SINGH)

उपाध्यक्ष/VICE PRESIDENT

चेन्नई/Chennai

दिनांक/Dated:22.02.2024.

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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