

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: 1530/Chny/2023

निर्धारण वर्ष / Assessment Year: 2017-18

Dr. Sivakumar Multispecialty
Hospital,
No. C-3, Arcot Road,
Sathuvachery,
Vellore – 632 009.

Assistant Commissioner of
v. Income Tax,
Circle-1,
Vellore.

[PAN: AAKFD-2121-P]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. M. Karunakaran, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing

: 16.04.2024

घोषणा की तारीख/Date of Pronouncement

: 16.04.2024

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal by the assessee is filed against the order of the CIT (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2017-18, vide order dated 30.11.2023.

2. The first ground of appeal is regards to dismissing the appeal of the assessee as time barred by the CIT (Appeals) National Faceless Appeal Centre(NFAC), Delhi.

3. Brief facts are that, the assessee is a partnership firm carrying on the business of running a Hospital at Vellore along with in house pharmacy. During the assessment year 2017-18, the assessee filed the return of income on 23.12.2017, along with the Audit report in Form 3CB and 3CD, after the due date for filing the Audit report as required u/s. 44AB of the Income-tax Act, 1961 (hereinafter referred to as "the Act"). Further, notice u/s. 143(2) of the Act, for delay in filing the Tax Audit report u/s. 44AB of the Act was served and scrutiny assessment was completed on 10.12.2019, which was accepted by the assessee. The penalty proceedings u/s. 271B of the Act was separately initiated by Assessing Officer and issued a show cause notice to the assessee 14.12.2019 and 24.02.2021. The reply filed by the assessee was not considered as the reasons provided for delay in filing the audit report is not acceptable and levied the penalty of Rs.1,50,000/- on 30.07.2021. The above order of penalty was sent to assessee through their registered Email ID provided in the ITBA portal. The assessee filed an appeal to the CIT (A), National Faceless Appeal Centre(NFAC), Delhi, on 14.03.2023 against the order of Penalty dated 30.07.2021, with a delay of more than 17 months.

4. Before us, the Id. Counsel for the assessee Shri. M. Karunakaran, Advocate argued that, the order of penalty had not been sent to the assessee's postal address and hence the order passed had not served at all. Further, he took us through the document attached in the paper book filed at page No.3, which is outstanding demand sheet received from the ACIT, Circle-1, Vellore, Income tax department, dated 05/12/2022, does not consist of the penalty payable by the assessee as per the above order and hence, the order of penalty had not served to the assessee on the date of order. Therefore, the order of penalty should be treated as not served on assessee as per the date of order.

5. The Ld. DR Shri. D. Hema Bhupal, JCIT, has stated that, the order sent to the registered Email of the assessee does complete the procedure of serving the order and hence the argument of the Ld. Counsel for the assessee for having not served the penalty order cannot be accepted and the appeal of the assessee be dismissed.

6. We have heard the rival contentions and gone through the facts and circumstances of the case. The reasonable cause

for filing the appeal belatedly for more than 17 months has not been established by the assessee. On the contrary, the Ld. DR has confirmed the order of penalty, which has been sent on the date of order itself to the assessee through their registered email ID, which is sufficient for confirming the communication of order to the assessee. Therefore, we are dismissing the appeal of the assessee by upholding the orders of the CIT(A).

7. Since, we have adjudicated the appeal based on issue of condonation of delay in filing the appeal, we need not go into other grounds on merits.

8. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 16th April, 2024 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /**Vice President**

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 16th April, 2024

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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