

आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकरअपील सं./ ITA No.176/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2009-10)

P V Adhikary,
Janani, 6/386, Plot No.120,
Ashok Ayelcheri,
Pattabiram,
Chennai 600 072.

Vs. The Income Tax Officer,
Non Corporate Circle 17 (1)
Chennai.

[PAN: AAIPA 8240J]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri. M. Abhishek, FCA

प्रत्यर्थी की ओर से /Respondent by

: Shri. P. Sajit Kumar, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing

: 17.04.2024

घोषणा की तारीख /Date of Pronouncement

: 17.04.2024

आदेश / O R D E R

MANU KUMAR GIRI (Judicial Member)

This appeal by assessee is arising out of the order of the Additional/Joint Commissioner of Income Tax (Appeals)-1, Office of the Commissioner of Income Tax (Appeal), Vadodara in Order No.ITBA/APL/S/250/2023-24/1058968338 (1), dated 21.12.2023 for the assessment year 2009-2010.

2. In the instant case, the appellant filed the appeal against the order under section 143(1) of the Act dated 29.09.2010 before the Ld. CIT(A).

According to Ld. CIT(A) the appeal was belatedly filed and there was delay of 4727 days. Ld. CIT(A) held that the appeal filed is not in conformity with the provisions of section 249 of the Act and there is no grounds for condonation of delay in filing of the appeal have been furnished hence dismissed the appeal.

3. Before the Tribunal, Ld. Counsel for appellant submitted that order u/s 143(1) of the Act has been served on the Assessee only on 03.10.2023. Ld. Counsel further submitted that despite repeated requests order u/s143(1) was not communicated. Ld. CIT(A) also failed to consider the letters and acknowledgments. Furthermore, Ld. Counsel submitted that the CPC u/s 143(1) dated 29.09.2010 ought to have allowed the entire TDS credit of Rs.4,33,017/- instead of Rs.4,00,517/-.

4. Per contra, the Ld. Sr. Departmental Representative has not controverted the submissions of the assessee.

5. We have heard both the parties and gone through the facts and circumstances of the case. As per intimation u/s 143(1) dated 29.09.2010, the CPC has not taken into consideration the full TDS credit claimed by the Assessee in the Income Tax Return filed. Before Ld. CIT(A) screenshot of ITR form and Form 16 were available on record. From record, it is seen that the Income of the Appellant has been accepted as such but Ld. AO/CPC miserably failed to consider the entire TDS of Rs.4,33,017/- however, has given credit of TDS only to the extent of Rs.4,00,517/-. We observe that Ld.

CIT(A) should have allowed the entire TDS credit instead of dismissing the appeal on account of delay. Hence, in the conspectus of matter, we allow the balance credit of TDS of Rs.33,017/-.

6. In the result, the appeal of the assessee in ITA No.176/Chny/2024 for assessment year 2009-2010 is allowed.

Order pronounced in the open court at the time of hearing on 17th day of April , 2024, at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई Chennai:

दिनांक Dated :17-04-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

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