

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH: CHENNAI

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष  
BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER  
आयकर अपील सं./ITA Nos.1336/Chny/2023 & ITA Nos.1339/Chny/2023  
निर्धारण वर्ष /Assessment Years: 2018-19 & AY-2019-20

Shri Chenniappan Ramadurai,  
No.56, NMS Compound, Erode,  
Tamil Nadu-638001.  
[PAN: AELPR2706M]

Dy. Commissioner of Income Tax,  
Central Circle-2, Coimbatore.

And  
ITA Nos.1342/Chny/2023 for AY 2019-20

Smt. Ramadurai Amutha,  
No.56, NMS Compound, Erode,  
Tamil Nadu-638001.  
[PAN: AFVPA4816L]

Dy. Commissioner of Income Tax,  
Central Circle-2, Coimbatore.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr.S.Sridhar, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri ARV Srinivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 30.05.2024

घोषणा की तारीख /Date of Pronouncement

: 12.06.2024

**आदेश / ORDER**

**PER AMITABH SHUKLA, A.M :**

In its opening arguments, the Ld.AR of the appellant informed that ITA Nos.1336/Chny/2023 & ITA Nos.1339/Chny/2023 for Assessment Years 2018-19 & AY-2019-20 respectively and ITA Nos.1342/Chny/2023 for AY 2019-20 are having common issues and disputes and therefore as requested the impugned appeals are adjudicated together.

**ITA Nos.1336/Chny/2023**

This appeal is filed against the order bearing DIN & Order No.ITBA/APL/M/250/2023-24/1056408093(1) dated 22.09.2023 of Ld.CIT(A) 19, Chennai. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 22.09.2023 passed by Ld.CIT(A) 19, Chennai.

2.0 It is seen from records that there is delay of 01 day in filing of this appeal. The assessee has submitted that it was on account of delay in handing over papers to the authorized representatives. Evidences brought on record allude that there is sufficient force in the assessee's arguments. It is trite law that no appellant gains by delaying its petition for redressal of its grievances. The delay in filing the appeal is therefore condoned and the appeal is being adjudicated as under.

3.0 Aggrieved by the aforesaid order dated 22.09.2023, the assessee has raised grounds of appeal 1 to 4.

4.0 Ground of appeal no.1 to 4 are regarding imposition of penalty u/s 271B of the Act vide order dated 16.03.2022. The AO noted that a Survey u/s 133A of the Act was conducted upon the assessee engaged in the business of whole sale and retail trading of textiles on 28.06.2020. Consequent to the survey incriminating documents indicating suppression of sales was noted. The case of the assessee was reopened u/s 147 r.w.s

148 of the Act. The assessing officer considering undisclosed sales turnover of Rs.2,09,25,334/- proceeded to make additions to the returned income. As per the penalty order the assessee did not respond to the show cause notices issued by the AO. From the material available on record the AO concluded that the assessee failed to get the accounts audited and submit requisite report u/s.44AB. Accordingly, he imposed penalty of Rs.1,50,000/-.

5.0 Before the Ld.CIT(A) the assessee informed that the due date for filing of audit report for AY-2018-19 was 30.09.2018 which was extended upto 31.10.2018 by the CBDT. The appellant filed audit report on 28.02.2019 after a delay of 120 days. Before the Ld.CIT(A), the appellant also contested that the penalty proceedings had actually got time barred. The Ld.CIT(A) dismissed the appeal of the assessee holding that the arguments put forth by the appellant were not satisfactory.

6.0 The Ld.AR vehemently argued that the Ld.CIT(A) has wrongly sustained the order of the assessing officer. In support of his contentions, the appellant relied upon the decision of this tribunal in ITA no.603/CHNY/2022 dated 15.02.2023 wherein penalty u/s 271B on account of late filing of audit report was deleted.

7.0 The Ld.DR placed reliance upon the order of the Assessing Officer and Ld.CIT(A). It was submitted that the order of lower authorities

is based upon correct understanding of the facts. The Ld.DR also submitted that no law can be framed by the Tribunal and that the relief accorded vide the ITA no.603/CHNY/2022 dated 15.02.2023 was erroneous.

8.0 We have heard rival submission in the light of facts of the case and material brought on records. It has been noted that the facts of the present case are identical to the facts of the case in which decision of the coordinate bench of this tribunal in ITA No.603(Supra) was taken. The Ld.DR has not distinguished the facts of present case with those available in ITA No.603(Supra). Accordingly, respectfully following the decision of the coordinate bench of this tribunal in ITA No.603(Supra), it is held that there is no case for levy of penalty u/s 271B in this case. The ground of appeal nos. 1 to 4 are therefore allowed.

9.0 In the result the appeal is allowed.

**ITA Nos.1339/Chny/2023 For Assessment Years A.Y-2019-20 in the case Shri Chenniappan Ramadurai, [PAN: AELPR2706M] and ITA Nos.1342/Chny/2023 for AY 2019-20 in the case of Smt. Ramadurai Amutha, [PAN: AFVPA4816L]**

10.0 As discussed above, the facts of case in the above mentioned appeals were reported by the Ld.AR to be identical to the one in **ITA Nos.1336/Chny/2023 For Assessment Years A.Y-2018-19 in the case Shri Chenniappan Ramadurai, [PAN: AELPR2706M]**. Accordingly, the decision taken therein follows:

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11.0 In the result the appeal for impugned ITA Nos.1339 and 1342(Supra) are also allowed.

*Order pronounced on 12<sup>th</sup> June, 2024 at Chennai.*

**Sd/-**

(यस यस विश्वनेत्र रवि)

**(SS Viswanethra Ravi)**

**न्यायिक सदस्य / Judicial Member**

**Sd/-**

(श्री अमिताभ शुक्ला)

**(Amitabh Shukla)**

**लेखा सदस्य /Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 12<sup>th</sup> June, 2024.

KB/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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