

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

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI MANU KUMAR GIRI, HON'BLE JUDICIAL MEMBE AND  
SHRI S. R. RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1010/Chny/2024**

निर्धारण वर्ष / Assessment Year: 2011-12

M/s. Elgi Equipments Ltd.,  
ELGI Industrial Complex,  
Trichy Road, Singanallur,  
Coimbatore – 614 005.

**[PAN: AAACE-4787-E]**

(अपीलार्थी/Appellant)

Assistant Commissioner of  
v. Income Tax,  
Non-Corporate Circle -2,  
Coimbatore.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. N.V. Narayanan, Advocate

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

सुनवाई की तारीख/Date of Hearing : 24.06.2024

घोषणा की तारीख/Date of Pronouncement : 28.06.2024

**आदेश / O R D E R**

**PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:**

This appeal by the assessee is filed against the order of the Commissioner of Income Tax (Appeals), Pune, for the assessment year 2011-12, vide order dated 15.02.2024.

2. The brief facts are that the assessee is a company and e-filed its return of income for the assessment year 2011-12 on 29.11.2011 declaring total income of Rs.122,83,67,099/-. The assessment was completed by passing the order U/s.143(3) of the Act on 14.02.2014 by making the additions of

Rs.2,41,94,887/- on various heads arriving at a total income of Rs.125,25,61,986/-. Aggrieved by the order of the AO, assessee preferred an appeal before the Id.CIT(A) and the Ld.CIT(A) granted partial relief vide its order dated 23.02.2015. Subsequently, aggrieved by the order of the Id.CIT(A), assessee preferred an appeal before this Tribunal and the Hon'ble Tribunal remitted back the file to AO to re-examine the issue of weighted deduction @ 200% claimed by the assessee U/s.35(2AB) on the revenue expenditure incurred for its in house research and development facility. As per the directions of the this Tribunal, after examining the details filed by the assessee and discussions with the Ld. AR, the assessment was completed by the AO and restricted the claim of R & D expenditure to 100% and passed the order U/s.143(3) r.w.s. 254 on 11.07.2017.

3. Aggrieved by the order of Assessing officer the assessee preferred an appeal before Ld.CIT(A) on 11/11/2017 with a delay in filing the appeal by 91 days.

4. The Id.Addl/JCIT(A)-1, Pune without giving any opportunity to the assessee or issuing notices for hearing,

dismissed the appeal of the assessee by passing an order dated 15/02/2024, stating that the appellant was not having 'sufficient cause' for delay in filing the appeal. Aggrieved by the order of the Id.Addl/JCIT(A)-1, the assessee is before us.

5. The Id.AR stated that the Id.Addl/JCIT(A)-1 has erred in dismissing the assessee's appeal exparte, without giving any opportunity to the assessee is erroneous in law and prayed for remanding the matter back to the Id.Addl/JCIT(A)-1 for adjudication on the merits of the case.

6. The Id.DR did not raise any objections for the same.

7. We have heard both the parties and gone through the order of the Id.Addl/JCIT(A)-1. It is noted that the Id.Addl/JCIT(A)-1 has passed the impugned order exparte without condoning the delay of 91 days and without considering the merits of the case. To meet the ends of justice, we remit back the appeal to the file of the Id.Addl/JCIT(A)-1 for denovo adjudication and direct the Id.Addl/JCIT(A)-1 to condone the delay in filing the appeal subject to cost of Rs.5000/- which shall be deposited by the assessee within 30 days from the date of receipt of this order to 'Tamil Nadu State Legal Services

Authority' at Hon'ble High Court of Madras. The proof of the same will be furnished by the Assessee before Ld. CIT(A), who shall proceed for de novo assessment. Accordingly, the impugned order is set aside and the appeal is restored back to the file of Ld.CIT(A) for fresh adjudication.

8. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 28<sup>th</sup> June, 2024 at Chennai.

**Sd/-**  
(मनु कुमार गिरि)  
**(MANU KUMAR GIRI)**  
न्यायिक सदस्य/**Judicial Member**

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

चेन्नई/Chennai,

दिनांक/Dated, the 28<sup>th</sup> June, 2024

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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