

आयकर अपीलिय 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 अपीलसं./ITA Nos.: **968, 969 & 970/Chny/2024**

निर्धारणवर्ष / Assessment Year: 2014-15

The Immaculate Heart of
Mary's Society,
Arul Malar Convent,
No.1, K.K. Nagar,
Madurai – 625 020.

Income Tax Officer,
v. Exemptions Ward,
Madurai.

[PAN:AAATT-7531-M]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/Appellant by : Shri. P.M. Kathir, Advocate

प्रत्यर्थीकीओरसे/Respondent by : Shri. V. Nandakumar, CIT

सुनवाईकीतारीख/Date of Hearing : 24.06.2024

घोषणाकीतारीख/Date of Pronouncement : 28.06.2024

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

These appeals by the assessee are filed against the three separate orders of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2014-15, vide orders dated 23.02.2024.

2. The assessee is a trust and has not filed its return of income for year under consideration i.e. A.Y.2014-15. Subsequently, the case has been reopened after receiving information from Income tax officer, Non corporate ward, Madurai vide its letter dated

28.05.2020. The Assessee originally got PAN as AAAAT5075D. The assessee has made a cash deposit of Rs.1,03,03,465/- into its Savings Bank account with Axis Bank, Madurai, during the A Y 2014-15. The principal of Arul Matric Higher Secondary School, KK Nagar, Madurai, stated that, the society was already registered U/s.12AA of the Act, with the original PAN - AAAAT5075D, and has filed all the returns, including its return of Income for the A.Y.2014-15. Subsequently, the assessee has obtained another PAN – AAATT7531M, for which registration U/s.12AA was not obtained.

3. The AO issued notices U/s.142(1) of the Act, to the assessee during the assessment proceedings and as the being non-complaint to the notices, the AO passed an order U/s.147 r.w.s. 144 r.w.s. 144B of the Act on 29.03.2022 by making an addition of Cash deposits made to the bank account as unexplained money U/s.69A of the Act to the tune of Rs.1,03,03,465/-.

4. Further the notice under section 274 r.w.s. 271(1)(c) of the Act was issued on 29/3/2022 to the assessee in consonance with the order U/s.147 r.w.s. 144 of the Act for levying penalty. Since the assessee trust has not participated in the penalty proceedings, the exparte order has been passed by the AO on 28/09/2022 by levying

minimum penalty (100% of tax) of Rs.31,83,771/- U/s. 271(1)(c) of the Act.

5. Further, the notice under section 274 r.w.s. 271F of the Act was issued on 29/3/2022 to the assessee in consonance with the order U/s.147 r.w.s. 144 of the Act for levying penalty. Since the assessee trust has not participated in the penalty proceedings, the exparte order has been passed by the AO on 16/09/2022 by levying penalty Rs.5,000/- U/s. 271F of the Act. Aggrieved by the orders of the AO, assessee preferred three separate appeals before the Id.CIT(A)/ NFAC, on 09.12.2022.

Order of the AO	Date of order Passed	Date of appeal filed with CIT (A)	Delay in filing the appeal
Assessment order U/s.147 r.w.s. 144	29/03/2022	09.12.2022	225 Days
Penalty order U/s. 271(1)(c)	28/09/2022	09.12.2022	42 days
penalty U/s. 271F	16/09/2022	09.12.2022	54 days

6. The Ld.CIT(A)/ NFAC, Delhi, without giving any opportunity to the assessee or issuing notices for hearing, dismissed the appeal of the assessee by passing three separate orders even dated 23/02/2024, by rejecting the reasons stated in the affidavit filed by the assessee for condoning the delay filing the appeals, stating that the appellant is not having 'sufficient cause' for delay in filing the aforesaid appeals.

Aggrieved by the orders of the Ld.CIT(A)/ NFAC, Delhi, the assessee is before us.

7. The Id.AR stated that the Ld.CIT(A)/ NFAC, Delhi, has erred in dismissing the assessee's appeals by exparte orders, by not considering the affidavit filed by the assessee for condonation of delay in filing the appeals and without giving any opportunity to the assessee on merits of the case, is erroneous in law.

8. Further, the counsel for the assessee stated that, the Society has maintained all the books and other records and filed its return of income on regular basis with the original PAN - AAAAT5075D. The counsel brought to our notice that, the second PAN - AAATT7531M, has been obtained later has created the issue on hand and hence prayed for remanding the matter back to AO for fresh assessment, as the order passed by him was exparte.

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

10. We have heard both the parties and gone through the order of the Ld.CIT(A) / NFAC. It is noted that the Ld.CIT(A) / NFAC has passed the impugned order exparte without

condoning the delay as stated supra and has not adjudicated the appeal on basis of merits of the case. Since, the AO also has passed the exparte order U/s.147 r.w.s. 143, we are inclined to remit back the file to the AO for denovo assessment to meet the ends of justice. We direct the assessee to participate in the assessment proceedings diligently and at liberty to submit all the necessary evidences and documents in support of the case.

11. The orders passed by the AO by levying penalty U/s.271(1)(c) and 271F are consequential to the quantum assessment, we set aside these orders of the AO, since the assessment proceedings are remitted back to AO for denovo assessment.

12. In the result, all the three appeals filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 28th June, 2024 at Chennai.

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

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

चेन्नई/Chennai,

दिनांक/Dated, the 28th June, 2024

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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