

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1031/Chny/2024
निर्धारण वर्ष/Assessment Year: 2013-14

Shri E.V.Muthukumara Ramalingam, 1, Kangayam Road, Reddipalayam, Tiruppur-641 604.	v.	The DCIT, Circle-1, Tiruppur.
[PAN: AGOPM 6735 C]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri H. Yeswanthkumar, CA
प्रत्यर्थी की ओर से /Respondent by	:	Shri P. Sajit Kumar, JCIT
सुनवाईकीतारीख/Date of Hearing	:	24.06.2024
घोषणाकीतारीख /Date of Pronouncement	:	27.06.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short 'the Ld.CIT(A)'), Delhi, dated 26.02.2024 for the Assessment Year (hereinafter in short 'AY') 2013-14.

2. At the outset, the Ld.AR of the assessee pointed out that the Ld.CIT(A) has passed an ex parte order without going into the merits of the case. According to the Ld.AR, since there was a delay of 144 days in filing of the appeal before the Ld.CIT(A), he dismissed the appeal of the



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assessee. According to the Ld.AR, the delay in filing of the appeal before the Ld.CIT(A) was not deliberate. According to him, he has brought to the notice of his Auditor, the assessment passed against him, but due to oversight on the part of the Auditor (during October-November, 2022), he misplaced the file; and therefore, he couldn't file the appeal on or before 29.10.2022. Therefore, according to the Ld.AR, assessee shouldn't be penalized for the fault of the professionals and prayed that the delay may be condoned and the matter may be restored to the file of the Ld.CIT(A) to decide the statutory appeal on merits as per sub-section (6) of sec.250 of the Act.

3. Per contra, the Ld.DR does not want us to give assessee one more innings.

4. Having heard both the parties and after perusal of records, we note that the Ld.CIT(A) has noted that there was a delay of 144 days in filing of the appeal before him. Therefore, he didn't condone the delay and dismissed the appeal. We do not countenance such an action of the Ld.CIT(A). If assessee is aggrieved by the action of the AO, he has statutory right to appeal before the Ld.CIT(A) and the Ld.CIT(A) is duty bound to decide the appeal in accordance to law as per sub-section (6) of sec.250 of the Act. In the present case, we note that assessee ought to have filed the appeal on or before 29.09.2022 against the penalty levied



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by the AO as noted [supra] due to omission on the part of the Auditor. According to us, the assessee should not be penalized for the fault of his auditor. Therefore, we condone the delay in filing of the appeal before the Ld.CIT(A) and restore the appeal back to his file, with a direction to decide the appeal on merits after hearing the assessee. The assessee is also directed to be diligent and file relevant documents/written submissions before the Ld.CIT(A) and is directed to decide the levy of penalty as per sub-section (6) of sec.250 of the Act.

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

Order pronounced on the 27th day of June, 2024, in Chennai.

Sd/-
(मनोज कुमार अग्रवाल)
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 27th June, 2024.
TLN, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR



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5. गार्डफाईल/GF