

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.1073/Chny/2024
निर्धारण वर्ष/Assessment Year: -

Fetna Trust, 545 Ashwin Hospital Campus, Bkr Nagar, Sathy Road, Coimbatore-641 012.	v.	The CIT (Exemptions), Chennai.
[PAN: AAATF 8041 N]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri G. Tarun, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Shri S. Maruthu Pandian, CIT
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 (Exemptions), (hereinafter in short 'the Ld.CIT(E)'), Chennai, dated 27.10.2023 rejecting the application filed on 25.04.2023 in Form 10AB under clause (iii) of first proviso to Sec.80G(5) of the Income Tax Act, 1961 (hereinafter in short 'the Act').

2. At the outset, it is noted that there is delay of '113' days in filing of this appeal and assessee has filed Condonation petition. Having perused the same, we are satisfied that there is reasonable cause for



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the delay. So, we condone the delay and proceed to adjudicate the appeal.

3. The Ld.AR of the assessee pointed out that the Ld.CIT(E) has passed an *ex parte* order qua assessee, since assessee didn't respond to his notice. According to the assessee, it has not received notice of hearing due to some glitches in the internet/computer. Therefore, he prays for one more opportunity.

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 impugned order of the Ld.CIT(E) is an *ex parte* order qua assessee. We note that the Ld.CIT(E) had directed the assessee to file relevant documents, which, according to the Ld.CIT(E), assessee failed to file and instead sought adjournment, but didn't file the relevant documents. Therefore, he dismissed the appeal of the assessee. According to the Ld.AR, omission to file documents called for by the Ld.CIT(E) is not deliberate and given an opportunity, the assessee undertakes to file all the documents called for by the Ld.CIT(E). Considering the overall facts and circumstances of the case, we are inclined to grant one more opportunity to the assessee and therefore, we set aside the impugned order of the Ld.CIT(E) and restore the application dated 25.04.2023 back



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to the file of the Ld.CIT(E) and direct him to decide the application in accordance to law and the assessee is also directed to be diligent and file relevant documents/written submissions before the Ld.CIT(E) and the Ld.CIT(E) to decide the application in accordance to law.

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
5. गार्डफाईल/GF