

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'D' BENCH, CHENNAI
श्री एसएस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष ।
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri Jagadish, Accountant Member

आयकर अपील सं./I.T.A. No.1199/Chny/2024
निर्धारण वर्ष/Assessment Year: 2013-14

Akilandanayagi Jayaramachandran,
No. 266/3A, Meenkarai Road,
Zaminuthukuli, Pollachi Taluk,
Coimbatore 642 004.
[PAN: AXMPA4295J]

Vs. The Income Tax Officer,
Ward 1, Pollachi,
Coimbatore.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Anandd Babunath, CA
प्रत्यर्थी की ओर से/Respondent by : Shri G. Suresh, JCIT
सुनवाई की तारीख/ Date of hearing : 26.06.2024
घोषणा की तारीख /Date of Pronouncement : 03.07.2024

आदेश /O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order dated 02.01.2024 passed by the Addl/JCIT (A)-3, Kolkata for the assessment year 2013-14.

2. We find that this appeal was filed with a delay of 32 days. The assessee filed notarized affidavit dated 18.06.2024 explaining the reasons. On perusal of the same and upon hearing both the parties, we note that the assessee made out a case in explaining sufficient cause for delay, which really prevented the assessee in filing the appeal within the

statutory period. Since the reasons are bonafide, the delay of 32 days is condoned.

3. At the outset, we note that the Assessing Officer determined the income of the assessee at ₹.26,52,120/- as against the returned income of ₹.3,25,120/-. The Assessing Officer disallowed a sum of ₹.21,65,000/- on account of capital/current account contribution as unexplained credit vide his order passed under section 143(3) of the Income Tax Act, 1961 ["Act" in short] dated 17.03.2016, against which, the assessee preferred an appeal before the Id. CIT(A) with a delay of 322 days.

4. The Id. AR Shri Anandd Babunath, CA submits that the Id. CIT(A) failed to consider the reasons as explained by the assessee to condone the delay and dismissed the appeal *in limine* without giving proper opportunity to consider the issue on merits. The Id. AR drew out attention the order of the Id. CIT(A) and submits that no discussion whatsoever made by the Id. CIT(A) on merits. He prayed to remand the matter back to the file of the Id. CIT(A) and undertook that the assessee is ready to prosecute the case with evidences. The Id. DR Shri G. Suresh, JCIT vehemently opposed the same.

5. Upon hearing both the parties, we note that the assessee contended that due to terminal illness of his mother being a

septuagenarian from cardiac issues and we note that the Id. CIT(A) dismissed the appeal *in limine* for not furnishing any evidence in support of illness of mother of the assessee. We note that the Id. AR undertakes that the assessee is ready to prosecute her case if this Tribunal afford an opportunity to the assessee before the Id. CIT(A). Taking into account in the interest of justice, one should not be denied a fair trial in support of their claims, therefore, we are of the opinion that the assessee shall get an opportunity before the Id. CIT(A) and accordingly, we direct the Id. CIT(A) to consider the reasons given by the assessee regarding the illness of her mother, which really prevented the assessee to file the appeal in time and condone the delay and adjudicate the issue on merits. Thus, the grounds raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 03rd July, 2024 at Chennai.

Sd/-
(JAGADISH)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 03.07.2024

Vm/-

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.