

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.684/Chny/2024
निर्धारण वर्ष/Assessment Year: 2011-12

Jawahar Bharathi, No.37 23 RD Cross, Maruthi Nagar, North Bangalore-560 064. [PAN: AJBPB 9924 E] (अपीलार्थी/Appellant)	v.	The Income Tax Officer, Ward-1, Pondicherry. (प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri T.M.Shivakumar, Advocate (Virtual)
प्रत्यर्थी की ओर से /Respondent by	:	Shri P. Sajit Kumar, JCIT
सुनवाईकीतारीख/Date of Hearing	:	21.05.2024
घोषणाकीतारीख /Date of Pronouncement	:	05.07.2024

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 18.01.2024 for the Assessment Year (hereinafter in short 'AY') 2011-12.

2. At the outset, the Ld.AR of the assessee submitted that even though, there was a delay of 385 days while filing the appeal before the Ld.CIT(A), and despite, there was reasonable cause for the condonation of delay, the Ld.CIT(A) didn't condone the delay and dismissed the appeal



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without going in to the merits of the appeal. Explaining the reason for the delay in filing the appeal before the Ld CIT(A), the Ld.AR submitted that the assessee was not aware of the Assessment Order [best judgment assessment] passed on 03.12.2018 u/s.144 of the Income Tax Act, 1961 (hereinafter in short "of the Act") since, the notices issued by the AO was at the earlier address of assessee at Pondicherry, whereas, assessee had shifted to Bangalore, which fact according to Ld AR is evident from perusal of Form No.35 [filed before the Ld.CIT(A)] as well as Form No.36 filed before us. Therefore, according to Ld AR, assessee was in the dark regarding framing of Assessment Order and only when the bank account of the assessee was attached, he found out on 26.12.2019 about the ex-parte income tax order/Assessment Order ; and immediately thereafter, filed appeal before the Ld.CIT(A). However, the Ld.CIT(A) without appreciating the facts have not condoned the delay. We do not countenance the impugned action of the Ld.CIT(A). We find from the perusal of Form No.36 & Form No.35 that assessee's present address is Jawahar Bharathi, No.3723 RD Cross, Maruthi Nagar, North Bangalore, Karnataka-560 064 [Phone No.96500 11368 & e-mail ID: tmskrl@yahoo.com] and in the Assessment Order the earlier address of assessee was shown at Pondicherry and the AO notes that the notices issued couldn't be served. Therefore, we find that there was reasonable cause for the assessee not receiving the notices/Assessment Order dated



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03.12.2018; and that assessee came to know about the assessment order only when his bank account was attached on 26.12.2019. Therefore, we find that there was a reasonable cause for the delay in filing of the appeal before the Ld.CIT(A), therefore, we condone the delay and restore the appeal back to the file of the Ld.CIT(A) with a direction to decide the grounds of appeal raised by the assessee in accordance with sub-sec.(6) of sec.250 of the Act after hearing the assessee.

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

Order pronounced on the 05th day of July, 2024, in Chennai.

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)
लेखा सदस्य/**ACCOUNTANT MEMBER**

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

चेन्नई/Chennai,
दिनांक/Dated: 05th July, 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