

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1351/CHNY/2024**

निर्धारण वर्ष/Assessment Year: 2016-17

**M/s. Janaki Thangam
Educational Trust,**
Plot No.9, Santhanasrinivasa
Perumal Koil Street,
Mogappair West,
Chennai – 600 037.

The Income Tax Officer,
Vs. Exemptions Ward (3),
Chennai.

PAN: AAATJ 5734C

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri G.Seetharaman, CA
: Shri Nilay Baran Som, CIT

सुनवाई की तारीख/Date of Hearing : 22.07.2024
घोषणा की तारीख/Date of Pronouncement : 22.07.2024

आदेश /ORDER

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Order No.ITBA/NFAC/S/250/2023-24/1057165066 (1) dated 18.10.2023. The assessment was framed by the Income Tax Officer, Exemptions Ward 3, Chennai for the

assessment year 2016-17 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 30.12.2018.

2. At the outset, this appeal is barred by limitation by 141 days and assessee has filed condonation petition for condoning the delay of 115 days. However, the Id.AR for the assessee during the course of hearing stated that there is a delay of 141 days because the order of CIT(A) dated 18.10.2023 was received by assessee through e-mail on 18.10.2023 itself and appeal should have been filed on or before 17.12.2023 but actually appeal was filed on 06.05.2024. Therefore, there is a delay of 141 days. He stated the reason for delay in condonation petition that the assessee handed over the order of CIT(A) to the Chartered Accountant Shri A. Rathinavelchamy, who filed an affidavit taking this blame and he stated in para 3 to 5 as under:-

“3. I prepared all the necessary appeal papers but, I did not forward these papers to the appellant for their signature. I noticed this omission only when the appeal for the asst. year 2017-18 came up for hearing before the Hon'ble Tribunal.

4. The fact the appeal for asst. year 2016-17 was not filed was noticed by me only in end April 2024. Immediately, thereafter, I forwarded the papers to the appellant for their signature and taking necessary steps for filing the appeal.

5. The delay in filing the appeal is only on account of my default.”

Going by affidavit, we are of the view that it is a fault on the part of the chartered accountant in not filing the appeal on time. Hence, we are intended to impose cost of Rs.5000/- to be paid to Tamil Nadu State Legal Services Authority at Hon'ble High Court of Madras by the assessee within a month's time from the date of receipt of this order. The assessee will pay this cost and produce the receipt before the CIT(A). In term of above, we condone the delay and admit the appeal for adjudication.

3. The Id.AR for the assessee stated that the CIT(A) in para 4 at page 3 has mentioned the dates of issuance of notice in para 4.1 as under:-

“4.1 Appeal notices were issued to the assessee on 25.12.2020, 23.08.2022 and 06.10.2023 fixing the case for 31.12.2020, 07.09.2022 and 13.10.2023. The appeal notice were issued on the email address provided in the Form 35 which is arathinavelsamy@hotmail.com i.e. Secondary Email Id as per e-filing profile of Assessee and e-mail bharathimhss.mvl@gmail.com i.e. Primary Email Id as per Latest Return filed. No response till date in any form has been received by the appellant. In absence of any response, the appeal is being decided on merits.”

The Id.AR stated that the order of CIT(A) is ex-parte and no adjudication on merits despite grounds raised by assessee. He stated that the CIT(A) has not allowed reasonable opportunity of being heard to the assessee, as only effectively two opportunities have been provided i.e., on 07.09.2022 and 13.10.2023. He stated

that the last date of hearing was fixed on 13.10.2023 but the CIT(A) passed the order on 18.10.2023. When this was pointed out to Id. CIT-DR, he contested setting aside the order of CIT(A).

4. We noted from the order of CIT(A) that reasonable opportunity of being heard was not provided to assessee and it was fixed three times i.e., 31.12.2020, during Covid period and thereafter only two times on 07.09.2022 & 13.10.2023. According to us, opportunity provided by CIT(A) is inadequate and not reasonable. Hence, we set aside the order of CIT(A) and remand the matter back to his file for fresh adjudication. The appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court at the time of hearing on 22nd July, 2024 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 22nd July, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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