

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'D' 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 Nos.1580/Chny/2024  
निर्धारण वर्ष /Assessment Years: 2003-04

Sundaram Theatre A/C,  
Deputy Collector Colony Managiri,  
Madurai, Tamil Nadu-625020.  
[PAN: AAAAS9394J]

Asst. Commissioner of Income Tax,  
Non-Corporate, Circle-3,  
Madurai

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri Kumar Subramaniam, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri G.Suresh, JCIT

सुनवाई की तारीख/Date of Hearing

: 22.07.2024

घोषणा की तारीख /Date of Pronouncement

: 31.07.2024

**आदेश / ORDER**

**PER AMITABH SHUKLA, A.M :**

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2023-24/1062694741(1) dated 15.03.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment years 2003-04. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 15.03.2024 passed by NFAC, Delhi.

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**2.0** It is noted that there is a delay of '10' days in filing of this appeal, for which, assessee has filed Condonation petition. Having perused the same, we are satisfied that there is reasonable cause for delay. So, we condone the delay and proceed to adjudicate the appeal.

**3.0** At the outset, the Ld.AR of the assessee pointed out that through the impugned order the Ld.CIT(A) has dismissed the appeal of the assessee by not accepting its request for condonation.

According to the Ld.AR, the assessee had genuine grounds which prevented the assessee from filing the appeal in time. Therefore, he pleaded for one more opportunity before the Ld.CIT(A) and accordingly requested that the matter be set aside to CIT(A) for adjudication of its appeal after condoning the delay.

**4.0** Per contra, the Ld.DR doesn't want us to give one more innings to the assessee.

**5.0** We have heard both the parties and perused the material available on record. We note that the Ld.CIT(A) has dismissed the assessee's appeal by not acceding to request for condonation for delay.

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According to the assessee, his other partner had expired and also that the assessee had gone to Malasia for some personal work which contributed to the delay in filing of appeal.

Be that as it may, it should be borne in mind that if an assessee is aggrieved by the Assessment Order, he has statutory right of appeal before the First Appellate Authority and such a right would be futile, if the First Appellate Authority doesn't give proper opportunity of hearing to the assessee. Therefore, for the ends of justice and fair play, we are inclined to give one more opportunity to the assessee, and therefore, set-aside the impugned order of Ld CIT(A) and restore the appeal back to his file for adjudication after condoning the delay, and the assessee is directed to file written submissions/relevant documents to substantiate the grounds of appeal and the Ld.CIT(A) to pass order in accordance to law after hearing the assessee.

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

*Order pronounced on 31st July, 2024 at Chennai.*

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**Sd/-**

**( एबी टी. वर्की )**

**(ABY T VARKEY)**

**न्यायिक सदस्य / Judicial Member**

**Sd/-**

**(अमिताभ शुक्ला)**

**(AMITABH SHUKLA)**

**लेखा सदस्य /Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 31<sup>st</sup> July, 2024.

*KB/-*

**आदेश की प्रतिलिपि अग्रेषित/Copy to:**

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