

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD

BEFORE
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 643/Hyd/2024 & 644/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2015-16)

Turimella Vasu Babu Vs. Income Tax Officer,
H.No.4/343/2 Ward-1
Ramjala Road, Adoni Adoni
Kurnool Dist., A.P.
[PAN : ACUPT8527B]

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा / Assessee by: Adv.Manjula, appeared for
Adv.Shaik Jeelani Basha
राजस्व द्वारा / Revenue by: Shri Gudimella V P Pavan Kumar, DR

सुनवाई की तारीख/Date of hearing: 15/07/2024
घोषणा की तारीख/Pronouncement on: 05/08/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the orders dated 21/3/2024 and 13/3/2024 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Turimella Vasu Babu ("the assessee") for the assessment year 2014-15, assessee preferred these appeals. ITA No. 643 /Hyd/ 2024 is in respect of the quantum addition whereas ITA No. 644 /Hyd/ 2024 is in respect of the penalty levied under section 271(1)(c) of the Income Tax Act, 1961 (for short "the Act").

2. At the outset, it is the submission on behalf of the assessee that the learned CIT(A) dismissed the quantum appeal in limine declining to condone the delay of 1528 days in filing of the appeal. According to the learned CIT(A) the reasons furnished by the assessee for the condonation of delay do not constitute sufficient cause and because the appeal was filed with such delay long after the sue motu extension of time limit due to Covid-19 as allowed by the Hon'ble Supreme Court.

3. Learned AR submitted that immediately on receipt of the copy of the order in this matter, on 12/12/2019, the assessee approached his auditor for filing the appeal but due to the preoccupations of the auditor the appeal could not be filed before the lockdown, and taking the word of his auditor that the appeal will be filed soon thereafter, the assessee did not pursue the matter but it is only just before the filing of the appeal the assessee came to know of filing of the appeal and immediately approached the auditor and took steps to file the same. Learned AR, therefore, submitted that the delay action in this matter was only due to the communication gap between the assessee and his auditor but not wanton or voluntary. Learned AR submits that in the interest of justice, an opportunity may be granted to the assessee to effectively prosecute the appeal, by restoring the appeal to the file of the learned CIT(A).

4. Learned DR vehemently opposed the prayer of the assessee and submitted that the law will not help those people who are not diligent in conduct of their case, since the delay in this case is abnormal the learned CIT(A) is justified in refusing to entertain the appeal.

5. I have gone through the record in the light of the submissions made on either side. It was pleaded before the learned CIT(A) that immediately after receipt of the copy of the order in the quantum appeal, the assessee met his counsel and due to the professional preoccupations of the counsel the appeal could not be drafted and filed at once, and believing the words of the counsel that the appeal would be filed in the

month of March, 2020 the assessee in a statute but when the assessee came to know that the appeal was not filed as promised by learned AR, then he immediately took steps for preparation of the grounds of appeal and filing the same before the learned CIT(A).

6. Ordinarily the delay of 1528 days require proper explanation in respect of the sufficient cause for the delay occurred. In this case according to the assessee the moment he received the copy of the order he approached his counsel, but due to the professional preoccupations of the counsel the appeal could not be filed at once but due to the intervening pandemic, believing the words of the counsel, the assessee rest assured and when he realised that the appeal was not filed as promised by his counsel, the delay occurred. Hon'ble Supreme Court also extended the time for filing of the appeals from the date of lockdown till expiry of 3 months from 1/3/2022. Having regard to the ordinary human conduct, I do not find anything suspicious in the submissions made by the assessee that believing the words of his counsel that the appeal would be filed in due course, the assessee rest assured and due to the long period of pandemic it escaped his mind causing the abnormal delay. The assessee does not stand to gain by not preferring the appeal in time and as a matter of fact, such a conduct is detrimental to his interest and therefore unless there are convincing reasons, an individual would not sleepover the matter.

7. Having regard to the facts and circumstances of the case, I am of the considered opinion that if the request of the learned AR is granted affording an opportunity to the assessee to prosecute the appeal before the learned CIT(A) by condoning the delay, the highest that would happen is that a cause could be decided on merits. When the technicalities are pitted against the delivery of substantial justice, the former must give way to the later.

8. With this view of the matter, I set aside the impugned order and restore the appeal to the file of the learned CIT(A) to pass an order in compliance with the

provisions under section 250(6) of the Act, and direct the assessee to co-operate with the first appellate authority in getting the matters disposed of on merits without seeking any adjournments and the learned CIT(A) to take a fresh look at the matter, after affording a reasonable opportunity to the assessee of being heard. I order accordingly.

9. In view of the peculiarity of the circumstances in the case of the assessee, the delay is condoned. I have perused the order of the learned CIT(A) in the appeal of the assessee against levy of penalty under section 271(1)(c) of the Act. Learned CIT(A) dismissed this appeal for non-prosecution by the assessee by applying the ratio in the case of CIT vs. Multiplan India Ltd 38 ITD 320. I find that this order is not in compliance with the requirement of the provisions under section 250 (6) of the Act. Since the quantum appeal is restored to the file of the learned CIT(A), the order of learned CIT(A) in the appeal against the levy of penalty under section 271(1)(c) of the Act is also set aside and the same is restored to the file of the learned CIT(A) to be disposed of along with the quantum appeal.

10. In the result, appeals of the assessee are treated as allowed for statistical purposes.

Order pronounced in the open court on this the 5th day of August, 2024.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 05/08/2024

Copy forwarded to:

1. Shri Turimella Vasu Babu, H.No.4/343/2, Ramjala Road, Adoni, Kurnool Dist., A.P
2. The Income Tax Officer, Ward-1, Adoni
3. Pr.CIT, Kurnool
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD