

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.:985/CHNY/2024

निर्धारण वर्ष/Assessment Year:2010-11

Smt. Swaminathan Suganthi,
21b, 3/519, Kovilpalayam,
Puthur, Alagumalai,
Tiruppur – 641 665.

The Income Tax Officer,
Vs. Ward 1(2),
Tiruppur.

PAN: AWBPS 8160J

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Badhri Narayanan, Advocate

प्रत्यर्थीकी ओर से/Respondent by

: Smt. R. Anita, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 20.08.2024

घोषणा की तारीख/Date of Pronouncement

: 20.08.2024

आदेश /O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi in Order No.ITBA/NFAC/S/250/2023-24/1060925815(1) dated 14.02.2024. The assessment was framed by the Income Tax Officer, Ward 1(2), Tiruppur for the assessment

year 2010-11 u/s.144 of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 25.12.2019.

2. At the outset, the Id.counsel for the assessee stated that the CIT(A) has dismissed the appeal of assessee as un-admitted without condoning the delay by observing in para 7, 7.1 & 7.2 as under:-

7. Thus, it is trite in law that the appellant must show that he was diligent in taking proper steps and the delay was caused notwithstanding his due diligence. It is for the appellant to explain the reason for the delay and it is not the function of authorities to find the cause for delay. The Appellate authority has to examine whether the sufficient cause has been shown by the appellant for condoning the delay and whether such cause is acceptable or not. Even though substantial justice should not be defeated by technicalities but that does not mean that any plea without any possible or acceptable basis and even without hearing, semblance or rationality has to be accepted and delay has to be accepted and condoned which shall be against the very spirit of law. The time prescribed for filing the appeal will become meaningless in such an event. Merely because substantial justice is to be done law of limitation cannot be ignored and that also when there is no sufficient and reasonable cause for such inordinate delay.

7.1. The appellant, in the present situation, appears to be guilty of laches or negligence and does not take appropriate steps to peruse the remedy till about 850 days and thus does not take appropriate action in filing the appeal within the prescribed time. In the light of the above discussion and considering the facts and position of the law on this issue, I find that there is no sufficient cause for condoning the delay in the institution of appeal by the appellant and thus condonation of delay is hereby rejected.

7.2 Since the appeal is being dismissed on account of being filed beyond the period prescribed under the Act, therefore, I am not expressing any opinion on merit of the case.

3. The Id.counsel for the assessee explained the facts that the assessment order is dated 25.12.2019 and as per Form No.35, the date of service of order/demand notice was 25.04.2022 and according to Id.counsel, there is no delay but the Id.counsel stated that even assuming that there is a delay, it is not known when original order was received by assessee. For this, he stated the facts that the assessee due to her family circumstances and on her health grounds shifted her residence to Kovilpalayam Pudur, Alagumalai, Tirupur. Due to her illness and circumstances beyond her control, she could not inform the Department or carry out the correction in the PAN database. She stated that all notices and assessment order was served on the old address and assessee became aware of the proceedings only when the penalty order u/s.271(1)(c) of the Act dated 31.01.2022 was came to known. In the mean while, the assessee lost her husband Shri Swaminathan on 03.05.2019 who was looking after the tax matters of the assessee. In such circumstances, the Id.counsel stated that the assessee might have received the assessment order either in January, 2020 or February, 2020 but 'Covid' pandemic started from March, 2020 and after that the entire period is covered by the decision of Hon'ble Supreme Court in Miscellaneous Application No.665 of 2021 vide order dated 23.03.2020 has given directions that the delay are to be condoned

during this period 15.03.2020 to 14.03.2021 and they have condoned the delay up to 28.02.2022 in Miscellaneous Application No.21 of 2022 vide order dated 10.01.2022. These facts were never considered by the CIT(A) and dismissed the appeal.

4. When these were pointed out to Id. Senior DR, she could not controvert the above facts. Hence, we are of the view that there is a reasonable cause and even, delay will be minimal if we exclude the exempted period granted by the Hon'ble Supreme Court and hence, we condone the delay occurred before CIT(A) in the given facts and circumstances. Hence, we set aside the order of CIT(A) and remand the matter back to the file of the CIT(A) for fresh adjudication on merits.

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 20th August, 2024 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 20th August, 2024

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

RSR

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त /CIT, Coimbatore
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF.