

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

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

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

आयकर अपील सं./ITA No.938/Chny/2024
निर्धारणवर्ष/Assessment Year: 2018-19

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| Shri Manivannan Chellapalam, 84, Sathyabhavanam, Ganesh Theater Road, Sivakasi-626 189. | v. | The DCIT, NCC-2, Madurai. |
| [PAN: AFGPM 6186 E] | | |
| (अपीलार्थी/Appellant) | | (प्रत्यर्थी/Respondent) |
| अपीलार्थी की ओर से/ Appellant by | : | Shri H. Yeswanthkumar, Adv. |
| प्रत्यर्थी की ओर से /Respondent by | : | Shri ARV Sreenivasan, Addl.CIT |
| सुनवाईकीतारीख/Date of Hearing | : | 18.07.2024 |
| घोषणाकीतारीख /Date of Pronouncement | : | 21.08.2024 |

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 15.02.2024 for the Assessment Year (hereinafter in short "AY") 2018-19.

2. At the outset, the Ld.AR of the assessee pointed out that the Ld.CIT(A) has dismissed the appeal of the assessee merely on the ground that the assessee failed to file condonation application for condoning the



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delay of '359' days in filing of the appeal before him. The Ld.AR filed the following date chart which shows the dates of events to explain the delay which is reproduced as under:

DATE CHART

| Date | Particulars |
|------------|---|
| 12.04.2021 | Copy of Assessment Order |
| 03.05.2021 | Form 35 filed in response to Assessment order passed on 12.04.2021, but inadvertently selected AY 2019-20 in place of AY 2018-19-Copy of Form 35 and Acknowledgement enclosed |
| 03.05.2021 | Form 26AS for AY 2018-19-Evidencing payment of appeal fees |
| 15.11.2022 | Form 25 filed again for AY 2018-19 |
| 15.02.2024 | Order passed by Commissioner of Income Tax (Appeals) for AY 2018-19 |
| 15.02.2024 | Order passed by Commissioner of Income Tax (Appeals) for AY 2019-20 |

3. From the aforesaid date of events, it is noted that the assessment order for AY 2018-19 was passed by the AO on 12.04.2021 and the assessee filed the appeal before the Ld.CIT(A) on 03.05.2021 i.e. (within 20 days) by filing Form 35 against the Assessment Order passed by the AO on 12.04.2021 but inadvertently mentioned the Assessment Year as AY 2019-20 instead of AY 2018-19. Copy of the Form 35 is found placed at Page Nos.11-13 of Paper Book. The assessee has also filed Form 26AS for AY 2018-19 which shows that assessee remitted the appeal fees for filing appeal before the Ld.CIT(A) for filing of appeal. However, when the assessee realized that it had made mistake as noted (supra), immediately filed another Form 35 for AY 2018-19. Even though, the aforesaid facts were brought to the notice of the Ld.CIT(A), the Ld.CIT(A) has passed the



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impugned order on 15.02.2024 dismissing the appeal for AY 2018-19 on the ground that the assessee had filed the appeal belatedly and didn't condone the delay. It was also brought to our notice that interestingly, on the same day, the Ld.CIT(A) has dismissed the appeal for AY 2019-20, wherein, he observed that the appeal has been filed on 03.05.2021 against the Assessment Order dated 12.04.2021 for AY 2019-20 instead of correct AY 2018-19. And conceded that grounds of appeal, statement of facts mentioned in Form 35 are related to AY 2018-19 and not that of AY 2019-20, for which, the appeal has been filed. Therefore, he has dismissed the appeal of the assessee. These actions of the Ld.CIT(A) can't be countenanced. It is noted that the assessee had filed the appeal against the Assessment Order dated 12.04.2021 for AY 2018-19 on 03.05.2021 well within the limitation period. However, due to inadvertent mistake (typographical error) shown in the Form as AY 2019-20 instead of for AY 2018-19, the delay had happened. Realizing the mistake, assessee had filed fresh Form 35 on 15.11.2022. Therefore, the delay took place, which ought to have been condoned. Be that as it may, considering the facts discussed (supra), we find reasonable cause for the delay in filing of the appeal before the Ld.CIT(A) for AY 2018-19. Hence, we condone the delay of 359 days in filing of the appeal before the Ld.CIT(A) for AY 2018-19 and set aside the impugned order of the Ld.CIT(A) and restore the appeal back to the file of the Ld.CIT(A) with a



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Shri Manivannan Chellapalam

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direction to adjudicate the grounds of appeal raised by the assessee in accordance to sub-sec.(6) of sec.250 of the Act after giving reasonable opportunity to the assessee.

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

Order pronounced on the 21st day of August, 2024, in Chennai.

Sd/-
(जगदीश)
(JAGADISH)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 21st August, 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