

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

BEFORE SHRI MANJUNATHA G, ACCOUNTNAT MEMBER AND
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER

आ.अपी.सं /ITA No.309/Hyd/2022
(निर्धारण वर्ष/Assessment Year:2019-20)

Shri Subba Raju Kondraju, Nellore. PAN: AENPK1302A	Vs.	Dy. Commissioner of Income Tax, Central Circle 1(3), Hyderabad
(Appellant)		(Resondent)

निर्धारिती द्वारा/Assessee by:	Shri A. Srinivas, C.A.
राजस्व द्वारा/Revenue by:	Shri Srinath Sadanala, SR-DR

सुनवाई की तारीख/Date of hearing:	09.09.2024
घोषणा की तारीख/Pronouncement:	10.09.024

आदेश/ORDER

PER SHRI PRAKASH CHAND YADAV, J.M:

The present appeal of the assessee is arising from the order of
Ld. Commissioner of Income Tax (Appeals)-11,{ hereinafter referred
to as CIT(A)} Hyderabad dt.31.03.2022 and relates to Assessment
Year 2019-20.

2. There is a delay of 56 days in filing the appeal before the Tribunal. At the outset, learned counsel for the assessee pointed out that the delay has happened for the reason that office of the Ld. CIT(A) has sent the order on e-mail ID provided in Form 35. Learned counsel for the assessee pointed out that the assessee, in Form 35 has categorically denied the service of notices / communications via e-mail, due to which the assessee remains unaware of the passing of order by the Ld CIT(A) and hence there is a delay of 56 days in filing the appeal before the Tribunal. Ld. DR appearing for revenue strongly opposed the condonation of delay contention raised by the learned counsel for the assessee.

3. After considering the rival submissions, we observe that in Form 35, annexed with appeal memo, it has been categorically mentioned that no notice / communication shall be sent to the assessee via mail. It appears that the office of the CIT(A), due to oversight, has sent the order via mail and hence assessee could not receive the order in time. In our view that there was a plausible reason behind the delay in filing the appeal. Therefore, we hereby condone the delay and proceed to adjudicate the appeal.

4. The assessee has raised three grounds of appeal before us. At the outset, learned counsel for the assessee pointed out that the Ld. CIT(A) has dismissed the appeal of the assessee for want of prosecution, therefore in the interest of justice the matter may be restored to the file of Ld. CIT(A) for fresh adjudication.

5. Ld. DR supported the orders of authorities below.

6. We have heard the rival submissions and perused the material on record. We observe that though it is mentioned in the Ld. CIT(A) order that he has issued many notices of hearing to the assessee yet the Ld. CIT(A) has failed to point out as to whether any notice of hearing was actually served upon the assessee. Further perusal of para 6.1 of Ld. CIT(A) order would show that all the notices were issued by Ld. CIT(A) during covid period i.e. between 30.05.2021 to 30.03.2022. It is pertinent to note here that Hon'ble Supreme Court in I.A. No.21 of 2022 vide its order dated 10.01.2022 taking suo motto cognizance of the pandemic period has increase the limitation period expiring during the period between 15.03.2020 to 28.03.2022 by further 90 days for compliance. Therefore considering the facts and circumstances of the case, we remit this matter back to the file

of Ld. CIT(A) for fresh adjudication after providing reasonable opportunity of being heard to the assessee.

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

Order pronounced in the open Court on 10th Sept., 2024.

Sd/-

(MANJUNATHA G)
ACCOUNTANT MEMBER

Sd/-

(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Hyderabad.

Dated: 10.09.2024.

* Reddy gp

Copy of the Order forwarded to :

1. Shri Subba Raju Kondraju, Partner of Greencity Mega Developers, Netaji Nagar, Podalakur Road, Nellore-524 004
2. DCIT, Central Circle 1(3), Hyderabad.
3. Pr.CIT (Central), Hyderabad.
4. DR, ITAT, Hyderabad.
5. Guard file.

BY ORDER,