

**आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH, CHENNAI**  
**श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष**  
**BEFORE SHRI MAHAVIR SINGH, VICE-PRESIDENT**  
**AND SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपीलसं./I.T.A.No.2418/Chny/2024

(निर्धारणवर्ष / Assessment Year: 2017-18)

<b>M/s. Aashna Investments Private Limited,</b> 5E Mookambika Complex, 4 Lady Desika Chari Road, Mylapore, Chennai-600 004.	Vs	<b>The Assistant Commissioner of Income Tax,</b> Central Circle-2(1) Chennai.
PAN : AAACA-6251-G		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent/Cross Objector)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. K.Ravi, Advocate
प्रत्यर्थीकीओरसे/Respondent by	:	Ms. Sandhya Rani, JCIT

सुनवाईकीतारीख/Date of hearing	:	20.09.2024
घोषणाकीतारीख /Date of Pronouncement	:	20.09.2024

**आदेश / ORDER**

**PER MAHAVIR SINGH, VP:**

This appeal by the assessee is arising out of order passed by the Commissioner of Income Tax (Appeals) National Faceless Appeal Centre (NFAC), Delhi vide Order No. ITBA/NFAC/S/250/2024-25/1068436926(1) dated 09.09.2024 for the assessment year 2017-18. The assessment was completed by the ACIT., Central Circle-2(1), Chennai for relevant assessment year 2017-18 u/s. 143(3) of the Income Tax Act, 1961 (hereinafter "the Act") vide order dated 05.07.2019.

2. When this petition for early hearing was called for hearing, the learned counsel for the assessee requested for fixing this appeal with the appeal under challenge in IT(SS) A No.4/Chny/2019 in assessee's own case which is posted for hearing on 03-10-2024. The learned counsel for the assessee requested for clubbing of this appeal with IT(SS) A No.4/Chny/2019 because this has direct bearing on this matter and also requested for early hearing of this appeal.

3. During the course of hearing of this early hearing petition and consolidation petition, we noticed that the assessee has raised the issue of violation of principles of natural justice and dismissal of assessee's appeal by the CIT(A) as unadmitted, because delay was not condoned. The learned counsel for the assessee explained the facts that the assessee before the CIT(A) filed an appeal against assessment order passed by the ACIT., Central Circle-2(1), Chennai dated 05.07.2019 only on 08.05.2021. Actually, the appeal before the CIT(A) should have been filed on or before 04.08.2019. Hence, there was a delay of 644 days. The assessee stated reasons for condonation of delay before the CIT(A) that it could not file the

appeal within the prescribed time limit , because the matter was being handled by his Chartered Accountant Mr.Narendradas Mohnot. Unfortunately, since 2019 Mr. Narandradas had been suffering from severe heart problems which required frequent hospital visits for ongoing medical treatment. Further, the assessee submitted that lockdown was declared by the Govt. from 20.03.2020 on account of COVID-19 pandemic, and since Mr.Narendradas, Chartered Accountant passed away due to cardiac arrest, there was a delay of 644 days in filing the appeal. The assessee also submitted that the delay in filing of appeal was neither willful nor wanton. The learned counsel for the assessee now, before us stated that the above delay comes within the ambit of exclusion provided by the Hon'ble Supreme Court in view of Covid Pandemic-19 and the Hon'ble Supreme Court in Misc. Application No.665 of 2021 vide order dated 23.03.2020 had given directions that delay is to be condoned during the period from 15.03.2020 to 14.03.2021 and finally condoned delay upto 28.02.2022 in Misc. Application No.21 of 2022 vide order dated 10.01.2022. But, in the present case, delay of 224 days which is to be explained between the period 04.08.2019 to 15.03.2020. The learned counsel for the

assessee stated that the assessee has given the above reasons, but the CIT(A) has not at all considered the same and dismissed the appeal of the assessee by observing in para 2.1 to 2.3 as under:-

*“2.1 Any delay in filing of appeal can be condoned if there is a sufficient cause for such delay. In the instant case, the assessee has not furnished any reasonable and sufficient cause for the delay. For condoning the delay by the CIT(A) u/s.249(3) the following conditions have to be satisfied by the appellant:*

- a. Proven absence of negligence and*
- b. Presence of satisfactory levels of diligence.*

*2.2 .....*

*2.3 In the instant case, conditions laid down u/s 249(3) are not fulfilled and there is no sufficient cause for the delay in filing of appeal. I am of the considered opinion that the inordinate delay in filing of appeal cannot be condoned. Therefore the appeal filed is dismissed.”*

4. In view of the above, learned counsel for the assessee stated that the matter can be remitted back to the file of the CIT(A) to first consider the reasons stated above as well as the issue to be decided on merits. When this was confronted to the Ld.Sr.DR and it was asked as to whether we can take up this appeal itself for disposal, because to-day case is fixed to decide early hearing, she consented that appeal itself can be taken up for disposal, since the CIT(A) has dismissed the

appeal without condoning the delay, and further, the Tribunal can take a decision.

5. We have heard the rival submissions and gone through the facts and circumstances of the case. We noted that the CIT(A) has not at all recorded any finding whether the cause explained by the assessee is reasonable or not. We are not sure the cause was placed before him or not (as mentioned above). The CIT(A) will consider the same reason and then decide the condonation of delay. In case, the CIT(A) condones the delay, then he can deal with the issue on merits, after allowing reasonable opportunity of hearing. Therefore, impugned order of the CIT(A) is set aside and matter is remitted back to the file of the CIT(A) to decide the issues afresh. However, at the time of hearing of appeal, learned counsel for the assessee told that there was total non-cooperation from the assessee and even during the assessment proceedings also the assessee has not cooperated and hence, we impose cost of Rs.10,000/- (Rupees ten thousand only) on the assessee for his negligence and the attitude of non-cooperation. The cost is to be paid to the Tamil

Nadu State Legal Services Authority at Hon'ble High Court of Madras on or before 31<sup>st</sup> October, 2024 and receipt of the same will be shown to the CIT(A).

6. The appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 20<sup>th</sup> September, 2024

Sd/-

(मनोज कुमार अग्रवाल )

( Manoj Kumar Aggarwal )

लेखा सदस्य / Accountant Member  
चेन्नई/Chennai,

दिनांक/Date: 20.09.2024

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. Appellant
2. Respondent
3. आयकर आयुक्त/CIT Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.

Sd/-

( महावीर सिंह )

( Mahavir Singh )

उपाध्यक्ष/ Vice-President