

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER
आयकर अपील सं./ITA Nos.1594/Chny/2024
निर्धारण वर्ष /Assessment Years: 2021-22

Villupuram Municipal Employees
Cooperative Credit Society,
Municipal Office,
Villupuram,
Tamil Nadu-605602.
[PAN: AAAAV3589J]

Income Tax Officer,
CHE-W-(181)(11),
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: None

प्रत्यर्थी की ओर से /Respondent by

: Shri R.Bhoopathi, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 23.07.2024

घोषणा की तारीख /Date of Pronouncement

: 16.10.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/APL/S/250/2023-24/1057557790(1) dated 31.10.2023 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment years 2021-22. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 31.10.2023 passed by Addl/JCIT, Gwalior.

2.0 At the outset the Ld. Council for the assessee informed that the Ld. First Appellate Authority vide his order dated 31.10.2023 supra has ex- parte confirmed the action of the Ld. AO made u/s 143(1) vide order dated 19.10.2022. It was argued that while doing so assessee's request for condonation of delay in filing the appeal was not favourably considered. The Ld. CIT(A) was reported to have, relied upon the legal maxim of "Vigilantibus et non dormientibus jura subveniunt" i.e law aids only those who are vigilant he dismissed assessee's appeal. The Ld. Council for the assessee urged that it had justified grounds for the delay and that the same was not intentional or with any malafide interests. The Ld. Counsel submitted that delay has occurred on account of non-receipt of order copy through postal or electronic means of communication. It was submitted that apparently the electronic communication from the department had misdirected to spam folder. Request was therefore made that the matter be set aside to the file of the Ld. CIT(A) for re-adjudication after condoning the delay on merits of the case. It was assured that full cooperation would be tendered to the Ld. CIT(A) now. The Ld. CIT DR did not object to assessee pleas.

3.0 We have heard rival submission in the light of material available on records. There is no denying the fact that the appellant had not filed the appeal in the statutorily prescribed time and had therefore requested for condonation of delay in filing of appeal and its adjudication. Perusal of the order of Ld. First Appellate Authority however shows that the Ld. First Appellate Authority has not properly appreciated the merits of the present case and merely applied the judicial maxim of “Vigilantibus et non dormientibus jura subveniunt” i.e law aids only those who are vigilant to dismiss the appeal. We have also considered the arguments put forth by the appellant for its inability to file the appeal in time. We are conscious of the fact that no litigant benefits by non-prosecution of its case. We therefore hold the view that ends of justice would be met if the appellant is given one more opportunity to present its case before the Ld. First Appellate Authority. Accordingly, we set aside the order of the Ld. First Appellate Authority and direct him to re-adjudicate the matter after condoning the delay and giving necessary opportunities to the assessee and pass a speaking order. The assessee shall, inter alia, be placing before the Ld. First Appellate Authority necessary documents to support its case for the delay. Accordingly grounds of appeal raised by the assessee are allowed for statistical purposes.

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4.0 In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced on 16th, October-2024 at Chennai.

Sd/-

(एबी टी. वर्की)

(ABY T VARKEY)

न्यायिक सदस्य / Judicial Member

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 16th, October-2024.

KB/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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