

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1666/Chny/2024  
निर्धारण वर्ष/Assessment Year: 2011-12

Mr. G. Kumaresan, 6/671-B, Indira Nagar, Narnapuram Road, Sivakasi-626 189.	v.	The ITO, Ward-2, Virudhunagar.
[PAN: AGHPK 9249 A]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr. R. Eshwar, CA
प्रत्यर्थी की ओर से /Respondent by	:	Dr. Samuel Pitta, JCIT
सुनवाईकीतारीख/Date of Hearing	:	21.08.2024
घोषणाकीतारीख /Date of Pronouncement	:	09.10.2024

**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 (Appeal)/Addl./JCIT(A)-9, (hereinafter in short "the Ld.CIT(A)"), Mumbai, dated 28.03.2024 for the Assessment Year (hereinafter in short "AY") 2011-12.

2. The Ld. Counsel for the assessee submitted that there is a delay of '7' days in filing of this appeal, because, assessee was prevented by reasons beyond his control and prayed for condonation of delay, for



:: 2 ::

which, the Ld.DR didn't raise any objection and hence, we condone the delay of '7' days and proceed to adjudicate the appeal on merits.

**3.** At the outset, the Ld.AR of the assessee pointed out that this is an ex parte order qua assessee and therefore prayed that one more opportunity may be granted to the assessee. According to the Ld.AR, the assessee couldn't respond to the notice of the Ld.CIT(A), because, notice was not served upon the assessee. Therefore, assessee couldn't respond to the notices; and the omission on the part of the assessee to appear/participate in the proceedings was not deliberate and the assessee would not gain any benefit from not participating in the appellate proceedings. Therefore, prayed for one more opportunity before the Ld.CIT(A)

**4.** Per contra, the Ld.DR doesn't want us to give one more innings to the assessee.

**5.** Aggrieved, the assessee is in appeal before this Tribunal.

**6.** We have heard both the parties and perused the material available on record. We note that the impugned order is an ex parte order qua assessee. According to the Ld.AR, the assessee has not received any notice of hearing which prevented the assessee from participating in the appellate proceedings. Be that as it may, it is noted that since the Ld.CIT(A) has passed impugned order without hearing the assessee, there



ITA No.1666/Chny/2024 (AY 2011-12)  
Mr. G. Kumaresan

:: 3 ::

is a violation of natural justice. Therefore, we are inclined to give one more opportunity to the assessee. The Ld.AR has undertaken to file all the relevant documents/written submissions before the Ld.CIT(A) provided an opportunity is granted to the assessee. Therefore, we set aside the impugned order and restore the appeal back to the file of the Ld.CIT(A) with a direction to adjudicate the grounds of appeal raised by the assessee after hearing the assessee. The assessee is directed to file written submissions/relevant documents to substantiate his grounds of appeal raised before him.

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

Order pronounced on the 09<sup>th</sup> day of October, 2024, in Chennai.

**Sd/-**

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**

(एबी टी. वर्की)

**(ABY T. VARKEY)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 09<sup>th</sup> October, 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