

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 No.2206/Chny/2024
निर्धारण वर्ष /Assessment Years: 2015-16

Inayat Najmuddin Bharmal
No.15, III Main Road, East
Abhiramapuram, Mylapore,
Chennai-600 004.
[PAN: AABPB7896A]

Income Tax Officer,
Non-Corp. Ward-1(2)
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri Naresh Singh Rathore, C.A

प्रत्यर्थी की ओर से /Respondent by

: Shri Chinthapalli Meher Chand, JCIT

सुनवाई की तारीख/Date of Hearing

: 24.10.2024

घोषणा की तारीख /Date of Pronouncement

: 25.10.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2024-25/1065635516(1) dated 13.06.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment years 2015-16. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 13.06.2024 passed by NFAC, Delhi.

2.0 At the outset the Ld. Counsel for the assessee informed that the Ld. First Appellate Authority has passed an ex-parte order thereby confirming the assessment order u/s 147 r.w. 143(3) dated 11.12.2021 and that the appeal was dismissed for being filed late without any justified grounds. It was pleaded that the assessee had committed delay of just 7 days and for which it had justified grounds. It was stated that the chartered account initially engaged by the assessee demised as a result the delay happened. The Ld. Counsel informed that its case is fully covered by the decision of Hon'ble Apex Court in the case of Rajiv Bansal dated 04.10.2024 which means that the AO did not have any authority to initiate the impugned proceedings u/s 148. The Ld. Counsel submitted the matter may be restored to Ld. CIT(A) for adjudication on its merits and that it shall make full compliance to the notices of Ld. CIT(A). In support of its contentions, the Ld. Counsel filed a detailed paperbook. The Ld. DR on the other hand by way of his written submissions submitted that the decision of Hon'ble Apex Court in the case of Rajiv Bansal dated 04.10.2024 is not applicable in this case.

3.0 We have heard the rival submissions in the light of material available on records. It is trite law that no litigant benefits by non-prosecution of its case. We find sufficient force in the pleadings of the assessee as to why it could not file its appeal in time. We have also noted that apart from merely harping on the issue of delayed filing by the assessee the Ld. CIT(A) has not touched upon merits of the case.

4.0 We are therefore of the view that ends of justice would be met if the case is set aside to the file of the Ld. CIT(A) for readjudication after giving opportunities of being heard to the assessee and to pass a speaking order. We also direct the Ld. CIT(A) to condone the delay of 7 days in filing of appeal in this case. He will be at liberty to call for any remand report from the Ld. AO if warranted by the facts of the case. The assessee shall be bound to comply to all the notices and details called by the Ld. CIT(A). Any non-compliance from the assessee side shall be adversely viewed. Accordingly, we set aside the order of the Ld. First Appellate Authority and direct him to readjudicate the matter de novo. Accordingly, the grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order pronounced on 25th, 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: 25th, 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