

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' 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.1497/Chny/2024
निर्धारण वर्ष /Assessment Years: 2017-18

No.3324 Nerinjipetai Primary Agri
Cooperative Credit Society Limited,
Nerinjipettai Post, Anthiyur Taluk,
Erode.
[PAN: AABAN4821G]

Income Tax Officer,
Ward-2(5),
Erode.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Ms.A.Vijayalakshmi, C.A, Tirupur.

प्रत्यर्थी की ओर से /Respondent by

: Shri Dr.Samuel Pitta, JCIT

सुनवाई की तारीख/Date of Hearing

: 14.08.2024

घोषणा की तारीख /Date of Pronouncement

: 13.11.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/APL/S/250/2023-24/1062027990(1) dated 05.03.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), for the assessment years 2017-18. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 05.03.2024 passed by CIT(A).

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2.0 It has been noted that there is a delay of 14 days in the case, in filing of this appeal before the tribunal. In its affidavit the assessee has pleaded that the assessee is a Primary Agricultural Society and that the secretary of the society was preoccupied with the finalization of its statutory audit causing the impugned delay. It was submitted that the delay was neither intentional nor wanton. The assessee accordingly requested that the delay may be condoned and the appeal may be adjudicated. We have considered the justification put forth by the assessee and we are satisfied with their adequacy. We are also conscious of the fact that no litigant gains by intentionally delaying its own matters. The Ld. DR submitted that the assessee is a habitual defaulter and costs may be imposed. Accordingly, we hereby condone the delay and proceed to adjudicate this appeal.

3.0 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 143(3) dated 23.12.2019 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 1217 days and for which it had justified grounds. It was submitted that of the total 1217 days 716 days delay came within the purview of Covid-19.

Before the Ld. CIT(A) the assessee had tried to justify the delay also on account of preoccupation with statutory audit, absence of qualified accountant etc. It was argued that the CIT(A) has not given any decision on the merits of the case. The Ld. Counsel accordingly submitted the matter may be restored to Ld. CIT(A) for readjudication on its merits and that it shall make full compliance to the notices of Ld. CIT(A). The Ld. DR on the other hand is stated that assessee is habitual defaulter and does not deserve any leniency.

4.0 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. Though we find sufficient force in the pleadings of the assessee as to why it could not file its appeal in time, it is noted that the assessee has defaulted with statutory timelines both before the Ld. First Appellate Authority as well as this Tribunal. The assessee therefore cannot go scott free and deserves imposition of costs. We therefore impose a costs of Rs. 5000/- upon the assessee to be deposited to the Tamil Nadu State Legal Services Authority of Hon'ble High Court of Madras within 30 days on receipt of this order and receipt thereof would be shown to the Ld. First Appellate Authority.

5.0 Coming to the order of Ld. First Appellate Authority, 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. 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) to condone the delay of 1217 days in filing of appeal in this case and for readjudication after giving opportunities of being heard to the assessee and to pass a speaking order. The Ld. CIT(A) 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.

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

Order pronounced on 13th, November-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: 13th, November-2024.

KB/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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