

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM BENCH, VISAKHAPATNAM

BEFORE
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER
&
SHRI S. BALAKRISHNAN, ACCOUNTANT MEMBER
(Through Hybrid Hearing)

आ.अपी.सं / ITA No. 436/Viz/2024
(निर्धारण वर्ष / Assessment Year: 2021-22)

Sri Jayalakshmi Rice Mill
Contractors G
Muralikrishna G V S
Satish & Co,
Kaikaluru-521333,
Eluru District.
[PAN : ADEFS2940Q]

Income Tax Officer,
Vs. Ward-1,
Bhimavaram-534201.

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri K Siva Rama Kumar, AR
राजस्व द्वारा/Revenue by: Dr. Aparna Villuri, Sr. AR

सुनवाई की तारीख/Date of hearing: 19/11/2024
घोषणा की तारीख/Pronouncement on: 25/11/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Aggrieved by the order dated 26/04/2024 passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi("Ld. CIT(A)"), in the case of Sri Jayalakshmi Rice Mill Contractors G Muralikrishna G V S Satish & Co ("the assessee") for the

assessment year 2021-22, assessee preferred this appeal with a delay of 113 days.

2. At the outset, the learned Authorized Representative (“learned AR”) submitted that the reason for the delay and also the reason for not entering appearance before the learned CIT(A) due to non-verifying of the notices issued by the NFAC are similar. According to him, the return of income filed by the assessee for the AY 2022-23 in respect of arrears received for the work done to the AP State Civil Supplies Corporation in FY 2020-21. But, as a matter of fact, the assessee-firm was closed down by 31/03/2022. According to the learned AR, this is the reason for the assessee not being able to verify the notices issued by the NFAC and also the reason for not filing the appeal in time. He also submitted that the service of notice dated 01/10/2024 on the Managing Partner of the assessee-firm calling upon the firm to pay tax consequential to the dismissal of their appeal by the NFAC. His main plank of argument is, however, that even in the absence of the assessee since the assessment order is available before the learned CIT(A), learned CIT(A) could have proceeded to advert to the merits of the case and disposed of by referring to the various aspects of merits. He, therefore, submits that the provisions under section 250 (6) of the Income Tax Act, 1961 (for short “the Act”) are not complied with.

3. Though the learned DR vehemently relied on the orders of the Revenue authorities, the fact remains that the learned CIT(A) did not refer to the facts nor did he dispose of the appeals on merits. Even in the absence of the assessee, it is always open for the learned CIT(A) to deal with the matter on merits, instead of dismissing the same in limine.

4. Though the learned Departmental Representative (“learned DR”) vehemently opposed the request of the assessee as to condonation of delay, the fact remains that there is no contradiction as to the statement made in the petition that the assessee-firm was closed down on 31/03/2022 and it is only on the service of notice dated 01/10/2024 on the Managing Partner of the assessee-firm it has come to the notice of the assessee that the appeal of

the assessee before the learned CIT(A) was dismissed. When the fact of the closing down of the assessee-firm by 31/03/2022 is not in dispute, there is nothing suspicious not to believe the explanation of the assessee, that there was no proper verification of notices issued by the NFAC.

5. Be that as it may, the assessee does not stand to gain by allowing the appeal to be dismissed for default, more particularly on the face of the fact that no rights are crystallized by afflux of time in favour of any party. The highest that would happen by condoning the delay and allowing an opportunity to the assessee to put forth their case diligently before the learned CIT(A), is that a case gets decided on merits which is in the interest of justice. Apart from that, as could be seen from the record, we find that the learned CIT(A) disposed-of the appeal ex-parte in limine, observing that various notices have been issued to the assessee, but the assessee failed to comply with any of such notices nor did the assessee produce any documents, explanation and evidence to substantiate the grounds raised.

6. Requirement of law under section 250 (6) of the Act is that the order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision. Even in the absence of the assessee, it is always open for the learned CIT(A) to deal with the matter on merits instead of dismissing the same in limine.

7. Having regard to the facts and circumstances of the case, we are of the considered opinion that the impugned orders do not comply with the requirement of Section 250(6) of the Act and cannot be sustained.

8. With this view of the matter, we set aside the impugned order and restore the issue to the file of the learned CIT(A) to decide the issue afresh. We direct the assessee to co-operate with the learned CIT(A) in getting the matter disposed of on merits, without seeking any adjournments and the learned CIT(A) to take a fresh look at the matter, after affording a reasonable

opportunity of being heard to the assessee. Grounds are accordingly treated as allowed for statistical purposes.

9. In the result, appeals of the assessee is treated as allowed for statistical purposes.

Order pronounced in the Open Court on this 25th day of November, 2024.

Sd/-
(S. BALAKRISHNAN)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 25/11/2024
OKK

Copy forwarded to:

1. Sri Jayalakshmi Rice Mill Contractors G Muralikrishna G V S Satish & Co, D.No. 10-70, Brahmam Gaari Gudi Veedhi, Near Sankara Matham, Kaikaluru-521333, Eluru District, Andhra Pradesh.
2. Income Tax Officer, Ward-1, Bhimavaram-534201.
3. The Pr.CIT,
4. The DR, ITAT, Visakhapatnam.
5. GUARD File

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam