

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

आ.अपी.सं / ITA No. 429/Viz/2024
(निर्धारण वर्ष / Assessment Year: 2017-18)

Purama Ramakrishna Rao, The Income Tax Officer,
Saluru, Vizianagaram Vs. Ward-2,
District – 535597. Vizianagaram.
[PAN : ALTPP4003E]

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri GVN Hari, 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 01/07/2024 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi (“Ld. CIT(A)”), in the case of Purama Ramakrishna Rao (“the assessee”) for the assessment year 2017-18, assessee preferred this appeal with a delay of 40 days.

2. With respect to the belated filing of the appeal, the assessee filed an affidavit dated 15/11/2024 and stated that due to ill health of the assessee, the appeal could not be filed within the stipulated time. On perusal of the reasons advanced by the assessee for not filing of the appeal within the prescribed time limit, we find that because of the assessee's ill health the assessee was prevented to file the appeal within the prescribed time limit. In our considered view, the assessee's reason for belated filing of the appeal constitutes a 'sufficient and reasonable cause' and therefore we hereby condone the delay of 40 days and proceed to adjudicate the appeal on merits.

3. At the outset the learned Authorized Representative ("learned AR") submitted that the impugned penalty in this appeal emanates as a consequence of addition made by the learned Assessing Officer ("learned AO") U/s. 69A of the Income Tax Act, 1961 ("the Act"). But, against the quantum addition the assessee preferred appeals and the Coordinate Bench of this Tribunal by order dated 25/09/2024 in ITA No. 221/Viz/2024 (AY 2017-18) pleased to delete the addition and therefore, the penalty does not survive. He further submitted that as on the date of the order passed by the learned CIT(A) in this penalty appeal, the quantum appeal was pending before the Tribunal and therefore, the learned CIT(A) did not have the benefit of learning the result in the quantum appeal.

4. The learned Departmental Representative ("learned DR") does not contradict the fact of deletion of the quantum addition in ITA No. 221/Viz/2024 by order dated 25/09/2024.

5. On a careful perusal of the matter, we are of the considered opinion that when once the quantum addition is deleted by the Coordinate Bench of the ITAT in ITA No. 221/Viz/2024, by order dated 25/09/2024, the penalty does not survive and therefore, we hereby direct the learned AO to delete the addition. Grounds answered accordingly.

6. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on this the 25th day of November, 2024.

Sd/-

(S. BALAKRISHNAN)
(ACCOUNTANT MEMBER)

Hyderabad, Dated: 25/11/2024

OKK

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Copy forwarded to:

1. Purama Ramakrishna Rao, C/o. Harika Agencies, D.No. 38/355, Main Road, Salur, Vizianagaram District, Andhra Pradesh-535597.
2. The Income Tax Officer, Ward-2, O/o. ITO Koppu Guarana Building, Siddartha Nagar, Vizianagaram, Andhra Pradesh-535002.
3. Pr. CIT
4. DR, ITAT, Visakhapatnam.
5. GUARD FILE.

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam