

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER
आयकर अपील सं./ITA No.2039 /Chny/2024
निर्धारण वर्ष /Assessment Years: 2019-20

V.Ganesh,
No.65/IA and IB Sirumoor Road,
Rattinamangalam,
Arni,
Tamil Nadu-632316
[PAN: AGMPG7554M]

PCIT(Central), Chennai-1,
Mahatma Gandhi Road,
Chennai

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by

: Smt.G.Vardhini Karthick, Advocate

प्रत्यर्थी की ओर से /Revenue by

: Ms.R.Anita, Adll.CIT

सुनवाई की तारीख/Date of Hearing

: 19.11.2024

घोषणा की तारीख /Date of Pronouncement

: 29.11.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/REV/F/REV5/2023-24/1062942320(1) dated 19.03.2024 of the PCIT(Central), Chennai-1 for the assessment years 2019-20. Through the aforesaid appeal the assessee has challenged order u/s 263 dated 19.03.2024 passed by PCIT, Chennai.

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2.0 At the outset it was noted that there has been a delay of 75 days in the filing of this appeal. Brief factual matrix of this case is that an order u/s 143(3) was passed on 21.08.2021. In the assessment order, the Ld. AO had considered the fate of survey proceedings u/s 133A in assessee's case as result of which excess stock of 1,22,55,399/- was found and which was admitted by the assessee along with another unexplained expenses of Rs. 42,77,280/-. It was noted that the assessing officer had failed to assess the additional income @ rate of 60% as per section 115BBE r.w.s 69B assessed at normal rate. The PCIT invoked his revisionary powers u/s 263 and vide his order dated 19.03.2024 held the impugned order u/s 143(3) was passed on 21.08.2021 as erroneous in so far as it was prejudicial to the interest of revenue and directed the Ld. AO to examine the applicability of section 115BBE r.w.s 69B in assessee's case in respect of additional income noted on account of the survey proceedings. Subsequent to the directions of the PCIT, the Ld. AO proceeded to make the necessary assessment u/s 143(3) r.w.s 263 vide his order dated 28.06.2024. The assessee has reportedly filed appeal before the First Appellate Authority against this order 28.06.2024 supra.

3.0 Aggrieved by the above said order of the PCIT the assessee is an appeal before us vide its appeal filed on 30.07.2024 with a delay of 75 days. In terms of order of the PCIT u/s 263 dated 19.03.2024 the assessee was required to have filed by 18.04.2024. Justifying the delay the Ld.Counsel for the assessee submitted that the assessee has justifiable grounds for the delayed filing this appeal. It was argued that the assessee had approached the counsel after passing of order dated 28.06.2024 and it was advised to contest the order of the

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PCIT u/s 263 dated 19.03.2024. Thus the delay was attributed to above circumstances. The Ld. Counsel has also placed reliance upon judicial pronouncements in support of merits of the case. The Ld. DR vehemently argued opposing condonation of any delay in the case. It was urged that the assessee intentionally waited for outcome of directions of PCIT qua his order dated 19.03.2024 and have, as an afterthought, considered agitating the said order now. The Ld. DR argued that the assessee is also in appeal before the Ld. First Appellate Authority. The Ld. DR submitted that even on merits the direction of PCIT are inconformity with the clear stipulations in the statute qua provisions of section 115BBE r.w.s 69B.

4.0 We have heard the rival submissions in the light of material available on records. It is an admitted fact of the case that the delay of 75 days have occurred in this case. It is also an undisputed fact of the case that the present appeal has been filed after passage of the u/s 143(3) r.w.s 263 vide his order dated 28.06.2024. We have noted that except for the meek submission of delay attributable to delayed advice of the counsel no other justifiable has been put forth with any demonstrative evidence so as to establish that the assessee was prevented with sufficient cause in timely filing this appeal. Accordingly, not satisfied with the arguments put forth by the assessee we hold that there was no sufficient cause with the assessee for the delay of 75 days in filing this appeal. The judicial pronouncements relied upon have been found to be distinguished as far as facts of the present case are concerned. Consequently we are not inclined to condone the delay. Accordingly, the delay is not condoned and the appeal stands dismissed in limine.

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5.0 In the result, the appeal of the assessee is dismissed.

Order pronounced on 29th, November-2024 at Chennai.

(यस यस विश्वनेत्र रवि)

(SS VISWANETHRA RAVI)

न्यायिक सदस्य / Judicial Member

(श्री अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 29th, November-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