

**M आयकर अपीलीय अधिकरण, 'डी' 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.2222 /Chny/2024
निर्धारण वर्ष /Assessment Years: 2021-22**

**Shri Khumchand Jain,
New No.24,
Chengalneer Pilliyar Koil Street,
Mylapore, Chennai-600 004.
[PAN: AADPK7830K]**

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

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by

: Mr.Arvind, Advocate

प्रत्यर्थी की ओर से /Revenue by

: Mr.Chinthapalli Meher Chand, JCIT

सुनवाई की तारीख/Date of Hearing

: 21.10.2024

घोषणा की तारीख /Date of Pronouncement

: 04.12.2024

आदेश / ORDER

PER AMITABH SHUKLA, A.M :

This appeal is filed against the order bearing DIN & Order No.ITBA/NFAC/S/250/2023-24/1060917995(1) dated 14.02.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment years 2021-22. Through the aforesaid appeal the assessee has challenged order u/s 250 dated 14.02.2024 passed by NFAC, Delhi.

2.0 It has been noted that there has been a delay of 131 days in the filing of this appeal. Requesting for condonation of the impugned delay, the assessee has stated that he had fallen seriously ill and was advised by the doctors to take complete rest. The assessee has stated that in January 2024, he was diagnosed with severe diabetes and he went through a surgical process. He has accordingly submitted that he could not devote his mental and physical time to his tax matters and which has contributed to the present delay. Upon considering the arguments put forth by the assessee, we are convinced that sufficient cause existed in the present case to prevent filing of appeal in time by the assessee. The delay of 131 days is therefore condoned and we proceed to adjudicate this appeal.

3.0 At the outset Ld. Council for the assessee informed that the learned first appellate authority decided his appeal without considering the documents/ evidences filed by it, and proceeded by recording his observations that the assessee has not filed any documents, details, evidences in support of its submissions. Ld. Council for the assessee submitted that it had provided evidences to the Ld. CIT(A) while filing the form 35 before him. Thus, attention was invited to item number 11 of the E acknowledgement form bearing number 926664650190123 qua filing of appeal in Form-35, which

shows that the assessee had filed his bank statements, balance sheet and computation of total income and that the assessee was relying upon the impugned documents in support of its contents. The Ld. DR relied upon the order of authorities below.

4.0 We have heard rival submissions in the light of material available on records. We have noted Ld. First Appellate Authority has dismissed the appeal of the assessee on the premise that no details, et cetera were filed before him in support of grounds of appeal raised before him. On the other hand, we have noted an element of truthfulness in the argument of the assessee of having filed some documents before the Ld.CIT(A) by way of enclosures to form 35. The electronic acknowledgment appended with form 35 is clear on the point. The learned CIT appeal ought to have considered the same before arriving at his conclusion. It was open for him to have concluded that the said details were insufficient or inadequate but it is not a case where conclusion of filing of no details can be drawn. Accordingly, we set aside the order of the Ld. First Appellate Authority, and direct him to readjudicate the matter de novo after considering details filed by the assessee in accordance with law and by passing of a speaking order. The assessee shall be responsible to comply with all

the notices issued by Ld. First Appellate Authority. Any non-compliance on the part of the assessee shall be adversely viewed.

Accordingly, all 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 4th, December-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: 4th, December-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