

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad

BEFORE SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं /ITA No.846/Hyd/2024
(निर्धारण वर्ष /Assessment Year:2018-19)

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| Srirama Chandra Akella, Hyderabad. PAN :AFPPA4899D | Vs. | Dy. Commissioner of Income Tax, Circle-12(1), Hyderabad. |
| (Appellant) | | (Respondent) |
| निर्धारिती द्वारा/Assessee by: | | Shri S. Venkateswarlu, C.A. |
| राजस्व द्वारा/Revenue by:: | | Shri Madan Mohan Meena, SR-DR |
| सुनवाई की तारीख/Date of hearing: | | 24.10.2024 |
| घोषणा की तारीख/Pronouncement: | | 05.11.2024 |

आदेश/ORDER

PER MADHUSUDAN SAWDIA, A.M. :

This appeal filed by Srirama Chandra Akella, Hyderabad ("the assessee") feeling aggrieved by the order dated 29.07.2024 of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)") relating to A.Y. 2018-19.

2. At the outset, the Ld. AR submitted that there was a delay of 106 days in filing the appeal before the Ld. CIT(A). However, the Ld. CIT(A) without condoning the delay and without going to the merits of the appeal, dismissed the appeal of the assessee.

The Ld. AR further submitted that the assessee is a salaried employee and was unknown about the assessment as well as appellate procedure under the Income Tax Act, 1961 (“the Act”). After the assessment proceedings, the penalty proceeding was initiated by the Ld. AO in the case of the assessee and the assessee was under impression that the penalty proceedings are continuous process of assessment proceedings and both the assessment proceedings and the penalty proceedings are one and the same. However, during the penalty proceedings, the Ld. AO informed the assessee that separate appeal is required to be filed against the assessment order of the Ld. AO. After coming to know from the Ld. AO, the assessee filed the appeal before the Ld. CIT(A). Due to this reason, the delay of 106 days occurred in filing the appeal before the Ld. CIT(A). Therefore, the Ld. AR submitted that there was a bona fide belief on the part of the assessee and the delay was caused due to the reason which was out of control of the assessee. Therefore the Ld. AR prayed before the bench to condone the delay occurred in filing the appeal before the Ld. CIT(A) and prayed to set aside the issue for consideration on merits. The Ld. AR also submitted that some documents/details could not be filed before the Ld. AO during

the assessment proceedings, which need to be verified at the Ld. AO level. Therefore, he prayed before the bench to set aside the issue to the file of Ld. AO.

3. Per contra, the Ld. DR placed reliance on the order of Ld. CIT(A) and submitted that there was unreasonable delay of 106 days in filing the appeal before the Ld. CIT(A). Therefore, the appeal of the assessee is liable to be dismissed.

4. We have heard the rival contentions and also gone through the record in the light of the submissions made on either side. It is found that the Ld. CIT(A) dismissed the appeal of the assessee without going to the merits of the case as the appeal was filed with delay. Perusing the submissions of the Ld. AR regarding the reason for delay in filing the appeal before the Ld. CIT(A), we are of the view that there was reasonable ground for delay in filing the appeal before the Ld. CIT(A). Therefore, we condone the delay in filing the appeal before the Ld. CIT(A). As the Ld. CIT(A) dismissed the appeal of the assessee in limine, the appeal of the assessee could not be heard on merits before the Ld. CIT(A). Further, as submitted by the Ld. AR some documents / details could not be filed by the assessee before the Ld. AO

during the time of assessment, which resulted in passing the orders without consideration thereof. Be that as it may, now the assessee is ready to produce all such documentary evidence in support of his contentions and get the matter disposed of on merits. The highest that would happen by allowing an opportunity to the assessee is that a cause would be decided on merits. With this view of the matter, we are of the view that fresh opportunity should be given to the assessee and, accordingly, we set aside the impugned order and restore the issue to the file of the Ld. A.O. for passing a fresh order on merits after affording the opportunity of hearing to the assessee. Grounds of appeal are answered accordingly.

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

Order pronounced in the open Court on 5th November, 2024.

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-

(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Hyderabad.

Dated: 05.11.2024.

* Reddy gp

Copy of the Order forwarded to :

1. Shri Srirama Chandra Akella, Flat-G1, Lotus Height Apartment, Street 8, Habsiguda, Hyderabad-500 036
2. DCIT, Circle 12(1), Hyderabad.
3. Pr. CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. Guard file.