

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

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री जगदीश, लेखा सदस्य के समक्ष

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND  
SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 2716/CHNY/2024

निर्धारण वर्ष/Assessment Year: 2017-18

**M/s. Sri Vidyadhaan Trust,**  
21/3, Bala Nagar,  
Thandarampet Main Road,  
Thenimalai,  
Thiruvannamalai - 606 603.

**The Income Tax Officer,**  
Vs. Exemptions Ward 3,  
Chennai.

**PAN: AAHTS 3285N**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by  
प्रत्यर्थी की ओर से/Respondent by

: Shri Girish Kumar, Advocate  
: Ms. Anitha, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 18.12.2024

घोषणा की तारीख/Date of Pronouncement

: 19.12.2024

**आदेश / O R D E R**

**PER GEORGE GEORGE K, VICE PRESIDENT:**

This appeal at the instance of the assessee is directed against CIT(A) - NFAC order dated 17.08.2023, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2017-18.

2. There is a delay of 374 days in filing this appeal. The authorized signatory of the assessee trust has filed a petition for condonation of delay along with affidavit stating therein the reasons for belated filing of this appeal. The reasons stated in the condonation application for belated filing of this appeal are as under:-

*“The Authorized signatory of the Appellant Trust is a senior citizen managing and running a school in the rural area for imparting education to the downtrodden children from rural areas. The Appellant Trust filed the appeal against the assessment order with the help of a tax practitioner.*

*The authorized signatory of the Appellant Trust was not conversant with the electronic regime of the income tax proceedings and was entirely dependent on the tax practitioner. The notices and orders were also sent to the email id of the tax practitioner who had not intimated the same to the authroised signatory and became negligent.*

*Subsequently, when the recovery notice was issued to the office of the school the authorized representative approached a Chartered Accountant from the same locality only after which the authorized representative came to know about the passing of the impugned order. The authorized representative immediately on the suggestion of the Chartered Accountant and approached the Counsel on Record for filing the present appeal.”*

3. On perusal of the aforesaid reason stated, we are of the view that no latches can be attributed to the assessee as there is sufficient cause for belated filing of this appeal. Hence, we condone the delay in filing this appeal and proceed to dispose off the appeal on merits.

4. At the very outset, we notice that the CIT(A) has passed an ex-parte order without condoning the delay in filing the appeal before him. The reason for passing an ex-parte order was that assessee has failed to respond to the notices issued from the office of the First Appellate Authority. It was stated by the CIT(A), no affidavit has been filed, hence the delay is not condoned. On merits, the CIT(A) held assessee has not filed the audit report in Form No.10B within the due date prescribed. Hence the assessee trust is not entitled to exemption u/s.11 & 12 of the Act.

5. The Id.AR submitted that the office of the First Appellate Authority had sent only two hearing notices which was sent to the e-mail ID of the tax practitioner who had missed taking note of the same, which had resulted in ex-parte order before the First Appellate Authority. It was submitted that the assessee was not aware of the completion of the CIT(A) order till the receipt of recovery notice during the month of October, 2024. It was submitted that the AO has erred in making an addition of Rs.88,42,349/- being excess income as per income and expenditure account by denying exemption u/s.11 of the Act. It was submitted by the Id.AR, in the interest of justice and equity, the assessee may

be provided with one more opportunity before the AO, since it was a best judgment assessment u/s.144 of the Act.

6. The Id.DR relied on the assessment order and the CIT(A)'s order.

7. We have heard rival submissions and perused the materials on record. The CIT(A)'s order was passed ex-parte since there was no response to the two notices issued to the assessee. It is the claim of the assessee that the notices were sent to the e-mail id of the tax practitioner, which was given in Form 35 and the managing trustee being a senior citizen and not computer literate, had to solely depend on the tax practitioner. It has been claimed by the assessee that the tax practitioner has missed taking note of the hearing notice issued from the office of the CIT(A) and accordingly, the proceedings before the CIT(A) remained ex-parte. In the interest of justice and fair play, we are of the view that one more opportunity should be provided to the assessee to represent its case. Since the proceedings before the AO also remained ex-parte, we deem it appropriate to restore this matter to the files of the AO subject to condition that assessee pays a cost of Rs.5,000/- (Rupees five thousand only) to be paid to Tamil Nadu State Legal

Services Authority at the Hon'ble High Court of Madras. The amount of Rs.5,000/- shall be paid within a month's time from the date of receipt of this order and assessee shall produce the receipt for the said payment before the AO. Accordingly, the matter is remitted to the files of the AO for fresh adjudication. The AO shall afford reasonable opportunity of hearing to the assessee. The assessee is directed to co-operate with the Revenue and shall not seek unnecessary adjournment. It is ordered accordingly.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 19<sup>th</sup> December, 2024 at Chennai.

Sd/-  
(जगदीश)

**(JAGADISH)**

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 19<sup>th</sup> December, 2024

**RSR**

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.

Sd/-  
(जॉर्ज जॉर्ज के)

**(GEORGE GEORGE K)**

उपाध्यक्ष /VICE PRESIDENT