

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.: 2702/CHNY/2024

निर्धारण वर्ष/Assessment Year: 2015-16

Sabari Foundation Pvt. Ltd.,
Old No.5, New No.9,
Seethammal Colony Extn.,
Teynampet, Chennai – 600 018.

The Income Tax Officer,
Vs. Corporate Ward 6(1),
Chennai.

PAN: AA ECS 0298R

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri R. Clement Ramesh Kumar, CIT

सुनवाई की तारीख/Date of Hearing

: 19.12.2024

घोषणा की तारीख/Date of Pronouncement

: 20.12.2024

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 20.06.2022, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2015-16.

2. There is a delay of 795 days in filing this appeal. The assessee company has filed a petition for condonation of delay

stating therein the reasons for belated filing of this appeal along with affidavit of the Director of the assessee company. The reasons stated in the condonation petition for belated filing of this appeal are as under:-

“The Managing Director of the Appellant company aged around 59 years old was unwell owing to multiple business failures and closed businesses and the appellant company was also closed and deleted/struck off from the ROC, Chennai vide order dated 09.08.2018 due to which there were no employees in the company during the pendency of the First Appeal Proceedings.

The First Appeal Proceedings was conducted on a non-existing company during the Covid-19 Pandemic by issuing notices to the appellant and the appellant was unaware of the notices as well as the passing of the impugned order on account of closure of the company and poor health of the Managing Director who was under severe stress and depression. Subsequently, the health of the Managing Director deteriorated leading to various treatments and procedures due to which the appellant could not follow up with the Income Tax Proceedings.

The present appeal was filed when the Managing Director received multiple recovery notices from the Income Tax Department after which he approached the Counsel on Record. Only when the Counsel on Record logged in the portal by finding the impugned order dated 20.06.2022, the present appeal was suggested and filed.

Thereafter, the present appeal was filed belatedly with the help of the Counsel on Record with a delay of 785 days. In such circumstances, the Petitioners submits that the delay in filing the appeal was due to the circumstances beyond the control of the appellant and pleads that the delay of 785 days in filing the appeal may be condoned considering the reasonable cause explained by the Petitioner /Appellant for adjudication of issues on merits in the interest of justice.”

3. On perusal of the aforesaid reason stated, we are of the view that the assessee company cannot be faulted for non-filing the appeal on time. There is sufficient reason and no laches can be attributed to the

assessee 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 for the reason that the assessee did not comply to the notices issued from the office of the CIT(A).

5. The Id.AR relied on the reasons stated in the condonation petition for non-appearance before the CIT(A). It was prayed that as a last opportunity, the issues raised in this appeal may be restored to the files of the CIT(A) for proper representation of the case.

6. The Id.DR on the other hand submitted that the Department has filed a petition before the NCLT to revive the assessee company which has been struck off from the ROC.

7. We have heard rival submissions and perused the materials on record. The CIT(A) has passed an ex-parte order on account of non-compliance by the assessee to the hearing notices issued from the office of the First Appellate Authority. The reason for non-appearance was on account of assessee's company name was struck off from the ROC vide order dated 09.08.2018.

Consequently, the business of the assessee company was closed and there was no employee in the company during the pendency of appellate proceedings. Therefore, there is adequate reason for non-appearance / non-representation on behalf of the assessee company before the First Appellate Authority. In the interest of justice and equity, we are of the view that one more opportunity ought to be provided to the assessee and accordingly, the issues raised in this appeal are restored to the files of the CIT(A). The Id.AR before the Tribunal had undertaken that he shall represent the assessee before the First Appellate Authority and shall not seek unnecessary adjournment. Taking into account his assurance, we direct the assessee not to seek any unnecessary adjournment and shall co-operate with the Department. 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 20th December, 2024 at Chennai.

Sd/-
(जगदीश)

(JAGADISH)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 20th December, 2024

Sd/-
(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT

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.