

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

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 3002/CHNY/2024

निर्धारण वर्ष/Assessment Year:2017-18

**M/s. AVM Autos,**  
9954/P-1, Alangudi Road,  
Pudukottai – 622 001.

**The Income Tax Officer,**  
Vs. Ward-1,  
Pudukottai.

**PAN: AAJFA 2158E**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri T. Vasudevan, Advocate  
: Shri S. Easwar, JCIT

सुनवाई की तारीख/Date of Hearing

: 23.01.2025

घोषणा की तारीख/Date of Pronouncement

: 24.01.2025

**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's order dated 30.04.2024, 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 148 days in filing this appeal. The assessee 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 order u/s.250 was passed by the ld.CIT(A) on 30/04/2024. The appellant had closed the business during the year 2017-18 completely. The mail address and mobile number as per the income tax profile was not monitored by the partner of the appellant-firm, due to which the appellant was also not aware of any of the notice and order related to appeal proceedings. However based on the demand raised by the concerned jurisdiction officer, the appellant came to know that appeal was disposed off by the ld.CIT(A), Immediately, the order was downloaded from the portal and the appeal was prepared by the auditor. The appellant filed an appeal eventually filed on 02.12.2024.”*

3. On perusal of the aforesaid reasons in the condonation application, we are of the view that there is sufficient cause for belated filing of this appeal and no laches can be attributed to the assessee. 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 appeal of the assessee has been dismissed ex-parte qua assessee. In response to five hearing notices issued from the office of the First Appellate Authority, the assessee has not furnished its submissions or any documentary evidences. Consequently the appeal of the assessee was dismissed *ex-parte* qua assessee for non-prosecution without adjudicating the issue on merits.

5. The Id.AR submitted that the hearing notices issued from the office of the First Appellate Authority was never received by the assessee as the same was sent through e-mail which was not taken note by the assessee. Further, the Id.AR submitted that the assessee has filed its return of income beyond the time limit, consequently the said return was not taken note off by the AO, who passed best judgment assessment u/s.144 of the Act. Therefore, he submitted that in the interest of justice and equity, the assessee may be provided with one more opportunity to represent its case before the AO, since it was a best judgment assessment u/s.144 of the Act.

6. The Id.DR supported the order of the AO and the CIT(A).

7. We have heard rival submissions and perused the materials on record. The Office of the First Appellate Authority had issued five hearing notices and since there is no submission made in response to the same, the CIT(A) dismissed the appeal of the assessee ex-parte for non-prosecution without adjudicating on merits. It is the claim of Ld.AR that since assessee firm business had closed down from the AY 2017-18, mail address and mobile number as per the Income-tax portal was not monitored by the partners of assessee firm. 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 had also completed on a best judgment assessment, we deem it appropriate to restore the case to the files of 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 24<sup>th</sup> January, 2025 at Chennai.

Sd/-

(अमिताभ शुक्ला)

**(AMITABH SHUKLA)**

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(जॉर्ज जॉर्ज के)

**(GEORGE GEORGE K)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 24<sup>th</sup> January, 2025

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.