

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्न
IN THE INCOME TAX APPELLATE TRIBUNAL 'B' BENCH, CHENNAI
श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: **3166/CHNY/2024**

निर्धारण वर्ष/Assessment Year: 2016-17

Shri Baskaran T.Thangappan,
8/1, West Mada Vilagam Street,
Sirkali-609 110.
PAN: ALBPB-5046-P
(अपीलार्थी/Appellant)

Income Tax Officer,
Vs. Ward-1
Nagapattinam.
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Mr. N.Arjun Raj, Advocate
प्रत्यर्थी की ओर से/Respondent by : Ms.Gauthami Manivasagam, JCIT
सुनवाई की तारीख/Date of Hearing : 20.02.2025
घोषणा की तारीख/Date of Pronouncement : 21.02.2025

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 order dated 28.08.2024, passed under section 250 of the Income Tax Act, 1961, (hereinafter called 'the Act'). The relevant Assessment Year is 2016-17.

2. There is a delay of 42 days in filing this appeal. The assessee has filed a petition for condonation of delay stating therein the reasons for belated filing of this appeal and also a supporting affidavit.

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 CIT(A) has dismissed the appeal ex-parte without condoning delay in filing the appeal before him [delay of 2 years, 8 months & 4 days]. The Ld.AR submitted that in Form 35, the assessee had given reasons for belated filing the appeal on account of his ill-health. However, he could not file any supporting medical certificates. Since the hearing notice issued from Office of CIT(A) was sent to wrong e-mail ID instead of one mentioned in Form-35.

5. The Ld.AR submitted that delay before the CIT(A) was partly during Covid period. It was further submitted that the assessee had suffered from stroke and systemic hypertension – Ischemic heart decease from August, 2021 and he has been treating by Dr.P.Muthukumar in Kumar Hospital, Sirkali, even to-day. A copy of the medical certificate issued by concerned Doctor is also placed on record.

6. The Ld.DR supported the order of the CIT(A).

7. We have heard rival submissions and perused material on record. The assessee in Form-35 had given ill health as the reason for belated filing of appeal before the First Appellate Authority. However, assessee has not enclosed any supporting evidence nor has filed an affidavit. It is the claim of Ld.AR that assessee did not appear before the CIT(A) on account of non-receipt of hearing notices, otherwise the assessee would have furnished necessary medical certificates and an affidavit for condonation of delay. The CIT(A) also has not condoned the delay primarily for the reason that no supporting evidences has been placed on record. It is a fact that hearing notice has been sent not on the e-mail ID mentioned by the assessee in Form-35. Therefore, assessee would have missed taking note of the hearing notices. Consequently, the same remained non-compliance and appeal was decided ex-parte. The assessee now before the Tribunal has placed on record medical certificates, wherein, it is clearly stated that the assessee has been suffering from stroke and systemic hypertension – Ischemic heart decease. In view of the documents now produced before us, we see no reason to remit the issue to the CIT(A) for reconsideration of condonation of delay. Accordingly, we condone the delay in filing the appeal before the CIT(A). Since, the issue before the AO was

completed on best judgement basis, we deem it appropriate to restore the matter before the AO. The AO is directed to afford reasonable opportunity of being heard 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 21st February, 2025.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 21st February, 2025

DS

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