

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

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं
माननीय श्री एस.आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
HON'BLE SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2772/CHNY/2024

निर्धारण वर्ष/Assessment Year: 2017-2018.

Chokalingam Bharath,
34, Panakal Street,
Kaveripattinam,
Krishnagiri 635 112.

Vs.

The Income Tax Officer,
Ward 1,
Krishnagiri.

PAN: AEPPB6176H

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri T.S. Lakshmi Venkataraman,
C.A. by Virtual.

प्रत्यर्थी की ओर से/Respondent by

: Shri A. Sasikumar, CIT.

सुनवाई की तारीख/Date of Hearing

: 11.03.2025

घोषणा की तारीख/Date of Pronouncement

: 13.03.2025

आदेश / O R D E R

PER MANU KUMAR GIRI (Judicial Member)

The captioned appeal filed by the assessee is directed against the order of the Ld. Commissioner of Income Tax (Appeals)(NFAC) Delhi [CIT(A)] dated 16.10.2023 for Assessment Year 2017-2018.

2. The registry has noted delay of 319 days in filing the appeal. The assessee in his affidavit stated as under:

Affidavit

I Chokalingam Bharath (PAN NO: AEPPB6176H) son of Chokalingam, Hindu aged about 54 years residing at 34, Panakal Street, Kaveripattinam, Krishnagiri -635112, do hereby solemnly declare and state the following,

1) For the A.Y.2017-18, I have filed an appeal in the Income Tax Appellate Tribunal, Chennai benches on 29.10.2024. I am well aware of the facts of the above case.

2) The above appeal has been numbered in ITA No. 2772/Chny/2024 and the appeal is posted for hearing before "D" bench on 05.03.2025.

3) The appellate order dated 16.10.2023 was received by the assessee on the same date and to avoid limitation the appeal should have been filed on or before 15.12.2023. But the appeal was filed on 29.10.2024 resulting in the delay of 319 days.

4) The delay of 319 days in filing the appeal happened because of the following reasons,

a. The assessee received show cause notice u/s 271AAC(1) of the Act dated 19.09.2024 for the assessment year 2017-18 with DIN No: ITBA/PNL/F/271AAC(1)/2024-25/1068870230(1). On receipt of the above notice the assessee approached his Chartered Accountant CA K Kalaiarasan, Krishnagiri in the last week of September, 2024 for receiving professional guidance. The above Chartered Accountant referred the matter to CA TS Lakshmivenkataraman, Salem for opinion. The above Chartered Accountant went into the Income Portal of the assessee and informed that the order of the CIT (Appeals) has been passed on 16.10.2023. The above Chartered Accountant opined an appeal has to be filed in the Income Tax Appellate Tribunal Chennai Benches immediately. Only after the above discussion the assessee came to know about the passing of the order by CIT(Appeals) on 16.10.2023. Then the appeal papers were made ready against the above CIT (Appeals) order u/s 250 and the appeal was filed on 29.10.2024.

b. The assessee is also aged about 54 years as on date and he was also pre occupied in his granite business.

c. Apart from the above factors the concept of "Real Time alert" is not available in the National Faceless Appeal Scheme. The above concept has not been inducted into the National Faceless Appeal Scheme, 2023 and hence neither the appellant nor his authorized representative had been served with any notices vide email or to their mobile.

d. The delay occurred in filing the appeal is neither willful nor wanton.

e. The delay in filing the appeal occurred due to the fact that there was no proper professional guidance from the previous Chartered Accountant and also the assessee has to contact his new Chartered Accountant at Salem who is aged about 68 years and distance between the above two place is around 110 kms.

f. In view of the above facts the delay in filing the appeal may kindly be condoned considering the difficulty faced by the assessee in not getting proper professional guidance.

5) In view of the above facts, the delay in filing the appeal may be condoned and the appeal may be admitted and adjudicated on merits.

Considering the reasons stated in the affidavit by the Assessee, we condone the delay and treat the reasons as 'sufficient cause' and admit the appeal for adjudication.

3. Brief facts are as under:

The assessee is an individual. As per the information available with the Department, it is noticed that the assessee has made cash deposits in "Specified Bank Notes (SBNs)' (Demonetized Currency) in bank account(s) during the Demonetized period (i.e, from 9.11.2016 to 30.12.2016) relevant for the Assessment Year 2017-18. It is further noticed that the assessee had not filed any return of income as required as per the provisions of section 139 of Income-tax Act for the aforesaid period. The AO computed the total income of Rs. 16,32,672/- as per order u/s. 144 of the Act dated 31.10.2019. Aggrieved, assessee preferred passed an appeal objecting to the assessment U/S 144 of the Act on an total income of Rs. 16,32,672/- on the fact that the AO made an addition of Rs.12,93,500/- on account of cash deposits made during demonetization period in the assessee bank account treating as unexplained investment u/s 69 of the Act. Assessee further challenged the order of assessment u/s 144 of the Act before the Id.CIT(A) who proceeded

ex-parte and confirmed the order of the AO on merits. Aggrieved, assessee is in appeal before us.

4 Before us, the Id. Counsel for assessee submitted that the CIT(A) has sent the two notices during Covid-19 period and suddenly one notice dated 21.07.2023 after a long gap which was not received by the assessee, hence the assessee was prevented from appearance on the purported dates. Therefore, he prayed that the assessee may be provided an adequate and proper representation time to file evidence and documents, if any, to substantiate his explanation regarding cash deposits during demonetization. The Id.DR stated that the assessee is habitual defaulter in appearing before the appellate authority hence no lenient view is to be taken in this case and prayed for dismissal of appeal.

5. Though we concur with the submissions of Ld. Sr. DR however, keeping in mind the principle of natural justice and grant another opportunity of hearing to the assessee. We also find that assessee has not represented before the Id.CIT(A) despite notices for the reasons stated above. We also note that even before AO the order is ex-parte. Accordingly, the impugned order is set aside and the appeal is restored back to the file of Ld. AO for denovo assessment on merits after affording proper opportunity of hearing to the assessee subject to cost of Rs.10,000/- which shall be deposited by the assessee within 30 days from the date of receipt of this order to 'Tamil Nadu State Legal Services Authority' at Hon'ble High Court of Madras. The proof of

the same will be furnished by the Assessee before Ld.AO whose shall proceed for denovo assessment after affording proper opportunity of hearing to the assessee.The assessee is directed to substantiate its case with all evidence and documents regarding cash deposits during demonetization, if any, forthwith without any fail, failing which Ld. AO shall be at liberty to proceed with the assessment proceedings on merits as per law. The Id. counsel, who appeared through virtual mode also assured the bench that he will ensure that the assessee will prosecute his case diligently.

6. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 13th day of March, 2025

Sd/-

एस.आर. रघुनाथा

(S.R. RAGHUNATHA)

लेखा सदस्य/ **ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated, the 13th of March, 2025

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / **JUDICIAL MEMBER**