

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL 'D' 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 अपीलसं./ITA Nos.: 310 & 311/Chny/2025
निर्धारणवर्ष / **Assessment Year: 2017-18**

Vikram Reddy,
202, Lotus Serviced Apartments
15, Venkataraman Street,
Thiyagaraya Nagar,
Chennai 600 017.

Income Tax Officer,
Vs. Non Corporate Ward - 18(5),
Chennai.

[PAN: AQZPV5520B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by

: Ms. T.V. Muthu Abirami, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri A. Sasikumar, CIT

सुनवाई की तारीख/ Date of hearing

: 19.03.2025

घोषणा की तारीख /Date of Pronouncement

: 20.03.2025

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

Both the appeals filed by the assessee are directed against the order passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, both dated 29.11.2024 and pertains to assessment year 2017-18. The appeal in ITA No. 310/Chny/2024 deals with quantum addition and the appeal in ITA No. 311/Chny/2025 is filed against confirmation of penalty levied under section 270A of the Income Tax Act, 1961 ["Act" in short].

2. First, we shall take up the appeal filed against quantum addition in ITA No. 310/Chny/2025 for adjudication, wherein, the assessee challenged the exparte order passed by the Id. CIT(A) without condoning the delay in filing the appeal.

3. At the outset, we note that the assessee is an individual and no return of income filed. According to the Assessing Officer, the assessee is a salaried employee and made cash deposits prior to demonetization period as well as during demonetization period totaling to ₹.3,88,93,360/-. Despite various notices issued by the Assessing Officer under section 142(1) of the Act requiring the assessee to file the return of income as well as to explain the source for the cash deposits made, there was no response from the assessee to file the return of income or furnishing details for the cash deposit, but, however, simply informed the Assessing Officer that the assessee is out of India. Since the assessee did not explain the source for the cash deposits in various bank account, the entire cash deposits of ₹.3,88,93,360/- is brought to tax under section 69 of the Act vide his order under section 144 of the Act dated 29.11.2019.

4. The assessee carried the matter in appeal before the Id. CIT(A) with a delay of 660 days in filing the appeal. The assessee filed a condonation petition before the Id. CIT(A) explaining the reasons for the

delay. However, by rejecting the condonation petition, the Id. CIT(A) dismissed the appeal. On being aggrieved, the assessee carried the matter in appeal before the Tribunal.

5. The Id. AR for the assessee submits that the assessee duly submitted petition for condonation of delay in filing the appeal before the Id. CIT(A). The Id. AR explained the reasons for the delay in filing the appeal before the Id. CIT(A) was covered by Covid-19 pandemic and the balance No. of 90 days was due to waiting for his employer's instructions to handle the matter about cash deposits made to his bank account on behalf of the employer. The Id. AR prayed for condoning the delay and remits the matter to the file of the Id. CIT(A) to adjudicate the issue on merits.

6. The Id. DR fairly conceded that the filing of appeal during Covid-19 pandemic period has been dispensed with the limitation by the Hon'ble Supreme Court.

7. Heard both the parties and perused the material available on record. Against the assessment order under section 144 of the Act, the assessee preferred an appeal before the Id. CIT(A). The assessee has filed a petition for condonation of delay in filing the appeal before the Id. CIT(A), which is reflected at page 4 of the impugned order. Before us, the Id. AR explained the reasons for the delay in filing the appeal before the Id. CIT(A) was covered by Covid-19 pandemic and the balance No. of 90 days was due to

waiting for his employer's instructions to handle the matter about cash deposits made to his bank account on behalf of the employer. We note that in the impugned order, there was no mention of issuing any notice of hearing to the assessee by the Id. CIT(A) calling explanation from the assessee, but, however, simply rejected the condonation petition filed by the assessee and dismissed the appeal. Under the above facts and circumstances, in the interest of justice, we deem it proper to remit the matter to the file of the Id. CIT(A) with a direction to condone the delay and adjudicate the issue on merits in accordance with law by affording reasonable opportunity of being heard to the assessee. Thus, the grounds raised by the assessee are allowed.

I.T.A. No. 311/Chny/2025

8. Against the quantum addition, the Assessing Officer issued notice under section 270A of the Act requiring the assessee to explain as to why penalty should not be levied under section 270A of the Act. Since there was no response from the assessee, the Assessing Officer levied penalty of ₹.1,50,22,560/- being 50% of the assessed income of the assessee. On appeal, the Id. CIT(A) dismissed the appeal filed by the assessee.

9. On being aggrieved, the assessee is in appeal before the Tribunal against levy of penalty under section 270A of the Act. Since the quantum addition made by the Assessing Officer under section 144 of the Act has

not attained its finality as the Tribunal, herein above, remanded the matter to the file of the Id. CIT(A) to condone the delay in filing the appeal and adjudicate the issue on merits, the penalty levied under section 270A of the Act is liable to be quashed. However, since we have remitted the quantum addition to the file of the Id. CIT(A) for adjudication in accordance with law, the levy of penalty under section 270A is also remitted to the file of the Id. CIT(A) for fresh adjudication after deciding the quantum addition on merits. Thus, the grounds raised by the assessee are allowed for statistical purposes.

10. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the court on 20th March, 2025 at Chennai.

Sd/-
(जॉर्ज जॉर्ज के.)
(GEORGE GEORGE K)
उपाध्यक्ष /VICE PRESIDENT

Sd/-
(एस. आर.रघुनाथा)
(S. R. RAGHUNATHA)
लेखासदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,
दिनांक/Dated, the 20th March, 2025

Vm/-

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

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