

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 अपील सं./ITA Nos.308 & 309/Chny/2025
निर्धारण वर्ष /Assessment Years: 2009-10 & 2011-12

(Late) Kishore Kumar Bagmar
L/H Rajendra Kumar Bagmar,
No 100, NSC Bose Road,
Parrys, Chennai 600 001.
[PAN: AAFPB8315C]

Income Tax Officer,
Non Corp Circle 4(1),
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by : Mrs. Divya Abhishek, FCA (Virtual)
प्रत्यर्थी की ओर से /Revenue by : Mr. A. Sasikumar, CIT
सुनवाई की तारीख/Date of Hearing : 20.03.2025
घोषणा की तारीख /Date of Pronouncement : 21.03.2025

आदेश / ORDER

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

Both the appeals filed by the assessee are directed against separate orders bearing DIN & Order No. ITBA/NFAC/S/250/2024-25/1072257852(1) and ITBA/NFAC/S/250/2024-25/1072257939(1) both dated 17.01.2025 of Addl./JCIT(A)-2, Gurugram for the assessment years 2009-10 and 2011-12. Through the aforesaid appeals the assessee has challenged order under section 250 of the Income Tax Act, 1961 ["Act" in short].

2. Since issues raised in both the appeals are similar based on the same identical facts, with the consent of both the parties, we proceed to

hear the appeals together and pass consolidated order for the sake of convenience.

3. In both the appeals, assessee raised 6 common grounds of appeal, amongst which, the only issue emanates for our consideration as to whether the Id. CIT(A) is justified in passing exparte order without condoning the delay in filing both the appeals.

4. The assessee is an individual filed is return of income for the A.Y.2009-10 on 18.03.2010 declaring the income of Rs.9,58,430/-. However, the assessee had not filed return of income for the A.Y. 2011-12. The assessee came to know that the CPC is adjusting the refunds claimed in the subsequent returns of income filed has been adjusted towards the liability of taxes raised for the A.Y.2009-10 & 2011-12 on account of 143(1) intimation (as per ITBA Portal the intimation u/s.143(1) dated 24.02.2011 for A.Y.2009-10 and 31.03.2013 for the A.Y.2011-12). However, it is noticed that the assessee has never received intimation for both the assessment years and is not aware of the reasons for additions made in the intimation. Further, the assessee filed letters by way of e-mails to the CPC as well as JAO for providing the copies of intimation issued u/s.143(1) of the Act. The assessee also raised grievance for non

receipt of 143(1) and failed to receive any communication from the department.

5. Aggrieved by the above demands shown in the income tax e-portal on account of intimation u/s.143(1) for the A.Y.2009-10 & 2011-12 the assessee filed appeal before the CIT(A), NFAC with the delay of 4200 days and 4500 days respectively. The Id.CIT(A) dismissed the appeals filed by the assessee *in limine* by stating that there is no sufficient cause for condoning the huge delay of 4200 and 4500 days respectively for the A.Y.2009-10 & 2011-12.

6. Aggrieved by the order of the Id.CIT(A) the assessee preferred the appeals before us. The Id.AR for the assessee stated that the intimations passed u/s.143(1) was never communicated to the assessee for both the assessment years. Further, the department has not acted upon our request for providing copy of intimation to enable us to understand nature of additions or disallowances made in the said intimation for both the assessment years. The assessee failed to succeed in getting the same by raising grievances. Therefore, the assessee filed the appeals before the Id.CIT(A) on becoming aware of the demand through ITBA Portal and hence prayed for quashing the demand raised u/s.143(1) of the Act.

7. Per contra, the Id. DR stated that the Id.CIT(A) has justified in dismissing the appeal without condoning the huge delay and hence prayed for dismissing the appeal.

8. We have heard rival contentions perused the material available on record and gone through the order of the Id.CIT(A). Admittedly, the department has not furnished the intimation u/s.143(1) of the Act for both the assessment years 2009-10 & 2011-12 even after request made by the assessee. The grievances raised by the assessee have also not been attended to by the department till today. Therefore, if the assessee's grievance for non receipt of intimation orders for both the assessment years are correct (which has not been rebutted by the Id. DR), we find that there is no delay in filing of appeals before the Id. CIT(A), i.e., 4200 days and 4500 days for AY 2009-10 & 2011-12 respectively. We note that neither the assessee nor the department is aware of the nature of additions or disallowances made while processing the return u/s.143(1) of the Act. Therefore, the demand raised in the ITBA Portal of the department is not supported by any of the orders and hence we deem it fit to remit the file to the AO by setting aside the order of Id.CIT(A) for both the assessment years. We direct the AO to provide the intimation u/s.143(1) of the Act for both the assessment years to the assessee and

continue the proceedings as per law. In case the AO fails to furnish the intimation u/s.143(1) of the Act to the assessee for both the above said assessment years, we direct the AO to accept returned income of the assessee.

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

Order pronounced in the open court on 21st March 2025 at Chennai.

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

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

चेन्नई/Chennai,

दिनांक/Dated: 21st March, 2025.

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Assessee:
2. प्रत्यर्थी/Revenue
3. आयकर आयुक्त/CIT -
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF

