

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL,
'A' BENCH, CHENNAI**

श्री एस एस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.:360/Chny/2025
निर्धारण वर्ष / Assessment Year: 2012-13

K. Rathinam, 9, S N Layout, Edayarpalayam, Coimbatore – 641 025.	vs.	Income Tax officer, Non Corporate Ward - 2(4), Coimbatore.
[PAN: ADSPR-4055-P] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Mr. A. Suraj Nahar, C.A.
प्रत्यर्थी की ओर से/Respondent by : Ms. Deeptha, Addl.C.I.T.

सुनवाई की तारीख/Date of Hearing : 30.04.2025
घोषणा की तारीख/Date of Pronouncement : 05.05.2025

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

This appeal by the assessee is filed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, for the assessment year 2012-13, dated 27.09.2023.

2. At the outset, we find that there is a delay of 431 days in appeal filed by the assessee, for which the assessee has filed an affidavit along with petition for condonation of delay in filing the appeal stating the reasons for delay,

wherein, it is submitted that due to non-service of the CIT(A) order dated 27.09.2023 on the registered email ID of the assessee viz., kkanagaraj67@gmail.com, the assessee was not aware of the passing of the CIT(A) order and realised it only much later after some notices u/s.271(1)(c) were received on the same email ID, after which the assessee's tax representative accessed the IT portal and found the CIT(A) order uploaded. Further, due to the suffering of both the assessee and her husband for a long time with multiple health issues, before and after the Id.CIT(A) order dated 27.09.2023. Therefore, the assessee didn't respond to the notice issued by the CIT(A). After considering the Affidavit filed by the assessee and also hearing both the parties, we find that there is a reasonable cause for the assessee in not filing appeal on or before the due date prescribed under the law and thus, in the interests of justice, we condone delay in filing of appeal and admit the appeal filed by the assessee for adjudication.

3. Brief facts are that the assessee is an individual and had filed her return of income for the Assessment Year 2012-13 on 24.07.2012 declaring total income of Rs.4,28,259/-. As per the information available with the department it was noticed that the assessee had sold immovable property for a sale consideration of Rs.40,00,000/-. While filing the return for Assessment Year 2012-13, the assessee had neither admitted the sale transaction nor claimed any exemption from capital gain arising. In view of this, notice under Section 148 of the Act was issued for filing the return. But the assessee neither filed the return of income in response to notice under Section 148 of the Act nor filed any submissions during the reassessment proceedings. Hence, an exparte order u/s.144 of the Act dated 24.12.2019 was passed by the AO by rejecting the

income declared under Section 44AD of the Act and treated the sale of immovable property liable for long term capital gain by allowing the deduction of cost of acquisition with Cost inflation index. Aggrieved by the order of the Assessing Officer, the assessee filed an appeal before the Id. CIT (A).

4. Before the Id.CIT(A) also, the assessee has neither filed written submissions nor filed any documentary evidence in support of his claim to the notice of hearing issued. Therefore, the CIT(A) dismissed the appeal by confirming the order of the Id. Assessing Officer by passing an order dated 27.09.2023. Aggrieved by the order of CIT (A), the assessee has filed appeal before us.

5. The Id.AR for the assessee stated that the Id.CIT(A) passed an order without the participation of the assessee and similarly the AO also has passed an order u/s.144 of the Act and hence prayed for one more opportunity before the AO to prosecute the assessee's appeal in interest of justice. Further, the Id.AR filed an Affidavit by giving an undertaking to appear before the Assessing Officer during the assessment proceedings through an unauthorised representative.

6. Per contra, the Id.DR submitted that both the Assessing Officer and the Id.CIT(A) provided sufficient opportunity to appear before them. However, the assessee has been negligent in responding to the statutory notices and hence, prayed for confirming the order of the Id.CIT(A).

7. We have heard the rival parties and perused the material available on record and gone through the orders of the lower authorities. We note that the Assessing Officer has passed an exparte order by considering the information

available with the department and the same has been dismissed by the Id.CIT(A) - NFAC due to non-participation of the assessee before the first appellate authority. In view of the above and to meet the ends of justice we set aside the order of Id.CIT(A) and remit the matter back to the file of Assessing Officer by relying on the decision of the Hon'ble Supreme Court in the case of Tin Box Company vs CIT, [2001] 249 ITR 216 (SC) and direct AO to denovo frame the assessment order in accordance to law, after providing reasonable opportunity to the assessee. Needless to say, the assessee to be diligent and file written submissions and relevant documents if advised so.

8. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the court on 05th May, 2025 at Chennai.

Sd/-
(एस एस विश्वनेत्र रवि)
(S.S. VISWANETHRA RAVI)
न्यायिक सदस्य/Judicial Member

Sd/-
(एस. आर. रघुनाथा)
(S. R. RAGHUNATHA)
लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 05th May, 2025

SP

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