

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस.आर. रगुनाथा, लेखा सदस्य के समक्ष
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri S.R. Raghunatha, Accountant Member

आयकर अपील सं./I.T.A. Nos.460 & 461/Chny/2025
निर्धारण वर्ष/Assessment Year: 2013-14

Anwar Sulthan Akbar Ali,
No. 5131, Mosque Road,
Ayapakkam, Tiruvallur 600 077.

Vs. The Income Tax Officer,
Non Corporate Ward 19(3),
Chennai.

[PAN:AONPA4265J]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Y. Sridhar, F.C.A.
प्रत्यर्थी की ओर से/Respondent by : Shri P. Krishna Kumar, JCIT
सुनवाई की तारीख/ Date of hearing : 07.05.2025
घोषणा की तारीख /Date of Pronouncement : 29.05.2025

आदेश /O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

Both the appeals filed by the assessee are directed against separate orders both dated 20.11.2024 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi for the assessment year 2013-14.

2. First, we shall take up appeal in ITA No. 460/Chny/2025 for adjudication of confirmation of quantum addition.

3. We find that this appeal was filed with a delay of 14 days. The assessee filed an affidavit for condonation of delay stating the reasons. Upon hearing both the parties and on examination of the said affidavit, we find the reasons stated by the assessee are bonafide, which really prevented in filing the appeals in time. Thus, the delay is condoned and admitted the appeal for adjudication.

4. At the outset, we note that according to the Assessing Officer, the assessee has deposited cash of ₹.1,63,33,867/- in savings bank account, deposited cash of ₹.1,03,02,000/- in a banking company and received brokerage of ₹.17,81,596/- during the year under consideration, which is clear from first para of assessment order. The assessee did not file his return of income as per section 139(1) of the Income Tax Act, 1961 [“Act” in short]. To take recourse action under section 147 of the Act, the Assessing Officer issued notice under section 148 of the Act dated 31.03.2021 through ITBA. However, the assessee did not file the return of income. Thereafter, the Assessing Officer issued notices under section 142(1) of the Act dated 10.11.2021, 08.02.2022 & 17.02.2022 and also issued show-cause notice under section 144 of the Act dated 24.02.2022. Since the assessee has not complied with any of the notices issued, the

Assessing Officer left with no other alternative but to complete the assessment under section 147 r.w.s. 144 r.w.s. 144B of the Act vide order dated 25.03.2022 assessing total income of the assessee at ₹.2,84,17,463/-, inter alia making additions of unexplained cash deposits under section 69A of the Act as well as addition towards income from brokerage. Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Id. CIT(A) with a delay of 299 days. Having not satisfied with the condonation petition filed by the assessee, the Id. CIT(A) dismissed the appeal.

5. The Id. AR Shri Y. Sridhar, F.C.A. submits that non-response to the notices issued by the Assessing Officer is neither wilful nor wanton. He filed a notarized affidavit dated 08.05.2025 of the assessee, who undertakes to appear and prosecute the case before the Assessing Officer/the Id. CIT(A) and prayed to afford an opportunity to the assessee, the content in the notarized affidavit is reproduced herein below:

I, Anwar Sulthan Akbar Ali, aged 54 years, residing at No. 5131, Mosque Road, Ayapakkam B.O., Ayapakkam, Tiruvallur 600 077, Tamil Nadu, do hereby solemnly affirm and state as follows:

- 1. I am fully acquainted with the facts and competent to swear to this affidavit.*

2. *That I am assessed to income tax by the Income Tax Officer, Non Corporate Ward 19(3), Chennai.*
3. *That I have not filed the return of income for the Assessment year 2013-14.*
4. *For the Assessment Year 2013-14, the ld. AO passed an order u/s 147 rws 144 rws 144B of the Income Tax Act, 1961 by adding a sum of Rs.2,84,17,463/- on account of alleged unexplained cash deposits us 69A and also imposed penalty u/s 271(c) of the Income Tax Act, 1961. Aggrieved by the orders, an appeal was preferred before the Hon'ble Commissioner of Income Tax (Appeals), NFAC, Delhi, who has dismissed the same. Further appeals have been preferred before the Hon'ble Income Tax Appellate Tribunal, Chennai, against the above ld. CIT (A) orders.*
5. *That I hereby undertake to appear in person before the ld. Assessing Officer and/or the Commissioner of Income Tax (Appeals), as and when required, in connection with the proceedings initiated under the Income Tax Act, 1961 pertaining to Assessment Year 2013-14.*
6. *That I further undertake to furnish all necessary documents, information, and explanations as may be required by the Department during the course of the assessment or other related proceedings.*
7. *That this affidavit is made to place on record my undertaking to fully cooperate with the income tax authorities and to ensure timely compliance with their requirements.*
8. *I affirm that all the above averments are true and correct to the best of my knowledge and belief.*

6. The Id. DR Shri P. Krishna Kumar, JCIT objected the same and submits the assessee totally failed to prosecute its case before the Assessing Officer and also, inspite of ample opportunities afforded to the assessee by the Id. CIT(A).

7. Having considered the submissions of the Id. AR and Id. DR, we note that the Assessing Officer made additions of unexplained cash

deposits under section 69A of the Act as well as addition towards income from brokerage. We find that there is no assistance from the assessee before the Assessing Officer and the Id. CIT(A) and the Assessing Officer completed the assessment under section 147 r.w.s. 144 of the Act dated 25.03.2022. As there is no assistance from the assessee, taking into account the undertaking given by the assessee vide affidavit dated 08.05.2025 that he is ready to appear and prosecute his case, thus, in the interest of justice, we deem it proper to remand the matter to the file of the Id. CIT(A) to condone the delay and decide the issues afresh on merits after considering the written submissions/ documentary evidences as may be filed by the assessee to substantiate his claim. In any case, if the assessee fails to appear before the Id. CIT(A), it is open to the Id. CIT(A) to complete the appellate proceedings based on the material available on record in accordance with law. Thus, the grounds raised by the assessee are allowed for statistical purposes.

I.T.A. No. 461/Chny/2025 against confirmation of penalty
under section 271(1)(c) of the Act.

8. We find that this appeal was filed with a delay of 14 days. The assessee filed affidavit for condonation of delay stating the reasons. Upon hearing both the parties and on examination of the said affidavit,

we find the reasons stated by the assessee are bonafide, which really prevented in filing the appeals in time. Thus, the delay is condoned and admitted the appeal for adjudication.

9. We note that against the assessment order under section 147 r.w.s. 144 r.w.s. 144B of the Act dated 25.03.2022, the Assessing Officer initiated penalty proceedings under section 271(1)(c) of the Act for the additions made in the assessment order. Since we have remanded the quantum additions to the file of the Id. CIT(A) for *de novo* consideration and since the additions made by the Assessing Officer has not attained its finality, the penalty levied under section 271(1)(c) of the Act become infructuous and deleted accordingly.

10. In the result, the appeal filed by the assessee in ITA No. 460/Chny/2025 is allowed for statistical purposes and the appeal in ITA No. 461/Chny/2025 is allowed.

Order pronounced on 29th May, 2025 at Chennai.

Sd/-
(S.R. RAGHUNATHA)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 29.05.2025

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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