

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री जगदीश, लेखा सदस्य के समक्ष

BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.1028 & 1029/Chny/2025
निर्धारणवर्ष/Assessment Years: 2012-13 & 2013-14

Muthukrishnan Jeyaprakash- Narayanan, No.4, 24, Vasanth Vijayam, Cross Street, Maharaja Nagar, Tirunelveli-627 011.	v.	The ACIT, Circle-1, Tirunelveli.
[PAN: AACPN 6743 M]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.T. Vasudevan, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	DR is on leave
सुनवाईकीतारीख/Date of Hearing	:	17.06.2025
घोषणाकीतारीख /Date of Pronouncement	:	22.08.2025

आदेश / ORDER

PER ABY T. VARKEY, JM:

These are appeals preferred by the assessee against separate orders of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter referred to as "the Ld.CIT(A)"), Delhi, dated 26.09.2022 for the Assessment Years (hereinafter referred to as "AY") 2012-13 & 2013-14.

2. At the outset, the Ld.AR of the assessee brought to our notice that the impugned orders of the Ld.CIT(A)/NFAC were *ex parte* orders on the



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ground that the assessee didn't respond to his four (4) notices of the Ld.CIT(A). According to the Ld.AR, since notices couldn't be served upon the assessee, hence, assessee couldn't respond to the notices of the Ld.CIT(A), which led to the passing of impugned ex parte orders qua assessee. And because of this reasons, the assessee was not even aware of the passing of impugned orders of the Ld.CIT(A). In this regard, the Ld AR brought to our notice also that assessee's Auditor, Shri G. Ramalingam, to whom the case was entrusted had passed away on 24.11.2023 due to cancer and the assessee was not even aware of his demise and came to know only such fact, when assessee received demand notice in the first week of March, 2025 and drew our attention to the Death Certificate. In order to buttress the fact that late G. Ramalingam was his AR who represented the assessee during assessment proceedings, he drew our attention to the assessment order viz first para wherein the AO has acknowledged that Shri G. Ramalingam had appeared before him on behalf of assessee which fact we find to be correct. According to the assessee, then he immediately collected the case file from the late Auditor's Office and handed over the same to the present Authorized Representative, Shri T. Vasudevan, Advocate, who immediately filed the appeal before this Tribunal; and in that process, there is a delay of '867' days in filing of appeals. The assessee is noted to have filed notarized affidavit along with condonation application, contents



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of which has been asserted/narrated supra. Therefore, in the absence of any other material to contradict the same, we note that reason for delay in filing of appeal are not because of any negligence or delay tactics adopted by assessee, but because of reasons which were not under his control/attribution to him. Therefore, for the ends of justice and fair play, we are inclined to condone the delay and proceed to dispose of appeals on its own merits.

3. As rightly pointed out by the Ld.AR, we find that impugned orders of the Ld.CIT(A) are ex-parte orders without hearing the assessee and therefore, there is a per-se violation of natural justice. As noted supra, the assessee didn't receive the notices issued by the Ld.CIT(A) on four (4) occasions i.e. on 21.05.2021, 08.07.2021 & 12.07.2022, & 05.08.2022. Out of which, we note that two (2) dates fall within the period of Covid-19 pandemic and the other two were in the month of July & August, 2022 when the assessee's Auditor, Shri G. Ramalingam was undergoing fourth stage of cancer treatment and can't be expected to respond, hence, we are of the view that the assessee should not be penalized for the non-appearance of Shri G. Ramalingam who passed away on 24.11.2023. Therefore, we are inclined to set aside the impugned orders of the Ld.CIT(A) and restore the appeals back to the file of the Ld.CIT(A) with a direction to decide the grounds of appeal in accordance to law as per sub-section (6) of section 250 of the Income Tax Act, 1961 after hearing the



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(AYs 2012-13 & 2013-14)
Muthukrishnan Jeyaprakash Narayanan

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assessee. The assessee is directed to be diligent and file all the relevant documents to support the grounds of appeal as well as file written submissions before the Ld.CIT(A) without fail and the Ld.CIT(A) to decide the grounds of appeal in accordance to law after hearing the assessee.

4. In the result, appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on the 22nd day of August, 2025, in Chennai.

Sd/-

(जगदीश)

(JAGADISH)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 22nd August, 2025.

TLN

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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