

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' 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 No.: 1991/CHNY/2025
निर्धारण वर्ष/Assessment Year: 2017-18

Shri Syed Khaja Mohideen,
Khaja & Sait, 2nd Floor,
Block 3D, Door No.9,
Murrays Gate Road,
Venus Colony,
Alwarpet, Chennai – 600 018.

The Income Tax Officer,
Vs. Non-Corporate Ward 17(7),
Chennai.

PAN: ASEPS 9976R

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri Khaja Mohideen, CA
: Ms. Gouthami Manivasagam, JCIT

सुनवाई की तारीख/Date of Hearing

: 18.09.2025

घोषणा की तारीख/Date of Pronouncement

: 18.09.2025

आदेश / ORDER

PER GEORGE GEORGE K, VICE PRESIDENT:

This appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 29.10.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2017-18.

2. There is a delay of 197 days in filing the appeal. The appeal ought to have been filed before ITAT on or before 28.12.2024. However, the appeal was filed belatedly on 16.07.2025. The assessee has filed a petition for condonation of delay and affidavit stating there in the reasons for belated filing of this appeal. The reason stated is that the assessee is an NRI and had not received the hearing notices or order passed by the FAA at his address. Therefore, he was unaware of the order passed being passed and hence, he could not file the appeal within the time. On perusal of the reason stated, we find there is sufficient cause for delay in filing this appeal before the Tribunal. Hence, we condone the delay in filing the appeal and proceed to dispose off the appeal on merits.

3. At the very outset, we notice that the order passed by the First Appellate Authority (FAA) is ex-parte, since there was no compliance from the assessee to five notices issued from the office of the First Appellate Authority. We also note that the FAA had dismissed the appeal of the assessee *in-limine* without adjudicating the issues on merits.

4. The Ld.AR submitted that the FAA has dismissed the appeal for non-compliance and not on merits. It was prayed, in the

interest of justice and equity, assessee may be provided with one more opportunity to present her case before the FAA.

5. The Ld.DR submitted that adequate opportunities were provided from the offices of the FAA and there is no violation of principles of natural justice. However, she could not controvert the fact that the FAA has dismissed the appeal for non-compliance.

6. We have heard rival submissions and perused the materials on record. The proceedings before FAA was ex-parte, since the assessee did not respond to various notices issued. We strongly deprecate the nonchalant attitude of the assessee in not responding to the notices issued from the offices of the FAA. We also noted that the FAA has simpliciter dismissed the appeal for non-compliance and not adjudicated or decided merits of the case. We find that appellate authority has no jurisdiction to dismiss the appeal for default of non-compliance without going into merits. The FAA is bound to decide the appeal on merits even in the absence of assessee. This view of ours is supported by the decision of Hon'ble High Court of Madras in the case of Southern Steel Industries vs. AAC (CT), reported in [1996] 101 STC 273 (Mad). In term of the above, the order of FAA is set

aside and matter remanded back to his file for fresh adjudication on merits after allowing reasonable opportunity of being heard to the assessee. The assessee is directed to co-operate with the Revenue and shall not seek unnecessary adjournment. It is ordered accordingly.

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

Order pronounced in the open court on 18th September, 2025 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 18th September, 2025

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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