

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

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2829/Chny/2025
निर्धारण वर्ष/Assessment Year: 2016-17

Subramaniam Srinivasan, 26, Pumping Station Road, Koovathamman Koil, Opp. Karungalpalayam S.O., Erode-638 003. [PAN: BEFPS 8600 N] (अपीलार्थी/Appellant)	v.	The ITO, Ward-1(1), Erode. (प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.S. Senthil Kumar, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Mr.K. Ilaiyaraja, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	16.12.2025
घोषणाकीतारीख /Date of Pronouncement	:	11.02.2026

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter referred to as "the Ld.CIT(A)"), Delhi, dated 19.09.2025 for the Assessment Year (hereinafter referred to as "AY") 2016-17.



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2. At the outset, the Ld.AR of the assessee brought to our notice that the Ld.CIT(A) has passed an ex parte order without condoning the delay of '31' days in filing of the appeal before him. According to the assessee, he had demonstrated the reasons for cause of the delay. But, the Ld.CIT(A) has not appreciated the same in the right perspective and didn't condone the delay which is arbitrary and therefore prayed for condoning the delay and giving one more opportunity to the assessee to pursue the appeal on merits before the Ld.CIT(A). The Ld.DR opposed the same and submitted that the assessee didn't show any sufficient cause for condoning the delay. Therefore, the Ld.CIT(A) rightly didn't condone the delay.

3. Having heard both the parties and after perusal of the records, we note that the AO had passed the assessment order on 23.09.2024 for AY 2016-17. Hence, the assessee had to file the appeal on or before 23.10.2024, but the assessee had filed the appeal only on 23.11.2024 with a delay of '31' days. Cause for the delay according to the assessee was due to the reason that it had preferred a rectification application before the AO on 21.10.2024 u/s.154 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') and expected the AO to consider the same and pass rectification order. However, finding no action from the



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part of the AO, the assessee had filed the appeal before the Ld.CIT(A) with a delay of '31' days. But the Ld CIT(A) is noted to have refused to condone the delay, which action we cannot countenance. It is noted that by passing the assessment order the AO had made an addition of ₹37,04,419/- and the assessee had filed rectification application u/s.154 of the Act on 21.10.2024 and finding no action from the part of the AO, had filed the appeal before the Ld.CIT(A) with a delay of '31' days which according to the assessee was on the advice of the Legal Counsel, therefore assessee should not be penalized for taking an alternate course sanctioned by law. Hence considering the fact that the assessee doesn't gain by not preferring the appeal against the addition made by the AO and instead has preferred an alternate course of action, it can't be said that the assessee had been negligent. Therefore, for the interest of justice and fair play, we condone the delay of '31' days in filing of appeal before the First Appellate Authority and hence set aside the impugned ex parte order of the Ld.CIT(A) and restore the appeal back to the file of the Ld.CIT(A) with a direction to adjudicate the grounds of appeal raised by the assessee as prescribed under sub-section (6) of Section 250 of the Act. The assessee is directed to participate in the appellate proceedings and file written submissions/relevant documents to substantiate the grounds of appeal and the Ld.CIT(A) to pass speaking order in accordance to law after hearing the assessee.



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Subramaniam Srinivasan

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

Order pronounced on the 11th day of February, 2026, in Chennai.

Sd/-
(एस. आर. रघुनाथा)
(S.R.RAGHUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 11th February, 2026.
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