

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos. 3015,3016 & 3017/Mds/2016

निर्धारण वर्ष / Assessment Years : 2013-14, 2014-15

Shri R. Prakash,
Prop. Indiana Minerals,
Rukmani Ashram,
Hasthampatti,
Salem – 636 007.

v. The Deputy Commissioner of
Income Tax,
Centralizing Processing Cell-TDS,
Vaishali,
Ghaziabad

PAN:AABHR6621R

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri V.S. Jayakumar, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri R. Duraipandian, Sr.AR

सुनवाई की तारीख/Date of Hearing : 08.12.2016

घोषणा की तारीख/Date of Pronouncement : 08.12.2016

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

All the three appeals of the assessee are directed against the order of Commissioner of Income Tax (Appeals) dated 23.08.2016 refusing to condone the delay of 340 days in filing the appeals. Since common issues arise for consideration in all the three appeals, we heard the same together and disposing the same by a common order.

2. Shri V. S. Jayakumar, Ld. Counsel for the assessee has submitted that the assessee was under the bonafide impression that the appeal was not maintainable before CIT (Appeals) and a writ petition has to be filed before the High Court. However, subsequently the assessee was advised to file appeal since the intimation under Section 200A is an appealable order. Accordingly the appeal was filed before CIT (Appeals). The Ld. Counsel has further submitted that the appellant's accountant left the service all of a sudden and therefore the appeal could not be filed in time. Hence there was a delay of 340 days in filing the appeal before CIT (Appeals). Referring to the order of this Tribunal in Smt. G. Indhirani v. The Deputy Commissioner of Income Tax, ITA Nos.1019,1020 & 1021/Mds/2015, the Ld. Counsel submitted that the fee levied under Section 234E of the Income Tax Act, 1961 (in short "the Act") cannot be levied prior to 01.06.2015. Since the issue is covered in favour of the assessee on merit, the Ld. Counsel has submitted that the delay of 340 days in filing the appeal may be condoned and the appeal of the assessee may be remitted back to the file of the CIT (Appeals) for reconsideration.

3. We heard Shri R. Duraipandian, Ld. Departmental Representative also. Shri R. Duraipandian, Ld. Departmental Representative very fairly stated that the CIT (Appeals) has not considered the appeal on merit. Therefore that matter may be remitted back to the file of the CIT (Appeals).

4. We have considered rival submissions on either side and also perused the material available on record. Admittedly, there was a delay of 340 days in filing the appeals before CIT (Appeals). It is not in dispute that the appellant's accountant left service all of sudden. There was also a confusion with regard to maintainable of appeal before CIT (Appeals)

against the intimation issued under Section 200A. In view of these facts, this Tribunal is of the considered opinion that there was a reasonable cause on the part of the assessee in not filing the appeals before the CIT (Appeals) within the prescribed period. Accordingly, the delay of 340 days in filing the appeals before CIT (Appeals) is hereby condoned. Now all the three appeals of the assessee stands restored on the file of the CIT (Appeals). CIT (Appeals) is hereby directed to consider the appeals of the assessee on merit and decide the same in accordance with law after giving a reasonable opportunity to the assessee.

5. In the result all the three appeals of the assessee are allowed for statistical purpose.

Order pronounced in the open court on 8th December, 2016 at Chennai.

Sd/-

(डि.एस. सुन्दर सिंह)
(D.S. Sunder Singh)
लेखा सदस्य/Accountant Member

Sd/-

(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 8th December, 2016.

JR.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.