

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री ए. मोहन अलंकामणी, लेखा सदस्य के समक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. : 3274/Mds/2016
निर्धारण वर्ष / Assessment Year :2012-13

Shri R. Padamchand Jain,
6, ChandrappaMudali Street,
Sowcarpet, Chennai – 600 079.

v. The Deputy Commissioner of
Income Tax,
Non Corporate Ward 5(1),
Chennai-34.

PAN: AAHPP0234G

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri M. Karunakaran, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri A.V. Sreekanth, JCIT

सुनवाई की तारीख/Date of Hearing

: 02.05.2017

घोषणा की तारीख/Date of Pronouncement

: 31.05.2017

आदेश /O R D E R

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

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-5, Chennai dated 04.10.2016 and pertains to the assessment year 2012-13.

2. According to Shri M.Karunakaran, the Ld. Counsel for the assessee there was a delay of 6 days in filing the appeal before the CIT(Appeals). The Ld. counsel for the assessee submitted that

the auditor was busy in finalization of tax audit. Therefore, even though the assessee engaged the chartered accountant to file the appeal before the CIT(Appeals), he could not do so. According to the Ld. counsel, merely because there was delay on the part of chartered accountant to file the appeal before CIT(Appeals), that cannot be a reason to penalize the assessee. The Ld. counsel further submitted that the delay in filing the appeal was due to the auditor because he was busy in finalization of the tax audit. Hence an opportunity may be given to the assessee to argue the case before the CIT(Appeals).

3. We heard Shri A.V. Sreekanth, the Ld. Departmental Representative also. The Ld.DR submitted that there was admittedly a delay of 6 days in filing the appeal before CIT(Appeals). The engagement of the auditor in finalization of tax audit may not be a reason to condone the delay. Therefore the CIT(Appeals) has rightly refused to condone the delay.

4. We have considered the rival submissions on either side and perused the material available on record. Admittedly there was a delay of 6 days in filing the appeal before CIT(Appeals). The reason for delay is that the auditor was busy in finalization of tax

audit. There was no negligence on the part of the assessee in prosecuting the appeal promptly. The assessee engaged the auditor and instructed him to prepare the appeal for filing the same before the CIT(Appeals). However, the auditor could not prepare the same, since he was busy in finalization of tax audit. Therefore this Tribunal is of the considered opinion that there was reasonable cause on the part of the assessee in not filing the appeal before the CIT(Appeals) in time. Accordingly the delay of 6 days is condoned. Consequently, the order passed by the CIT(Appeals) is set aside. Now the appeal of the assessee stands restored on the file of the CIT(Appeals). The CIT(Appeals) is directed to dispose the file on merit by giving reasonable opportunity to the assessee.

5. In the result, the appeal of the assessee stands allowed.

Order pronounced on 31st May, 2017 at Chennai.

Sd/-

(ए. मोहन अलंकामणी)
(A. Mohan Alankamony)
लेखा सदस्य/Accountant Member

Sd/-

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

चेन्नई/Chennai,
दिनांक/Dated, the 31st May, 2017.

JR.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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