

आयकरअपीलीयअधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM**

**श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER &
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A.No.40/Viz/2022
(निर्धारण वर्ष / Assessment Year : 2011-12)**

**Mahesh Gurram
39-33-100/2, Plot No.401
Opp.East Park
Visakhapatnam
[PAN : AJVPG1828N]**

**Vs. Income Tax Officer
Ward-2(1)
Visakhapatnam**

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

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

**: Shri Mahesh Gurram, Assessee
: Dr.Aparna Villuri, DR**

सुनवाई की तारीख / Date of Hearing

: 20.03.2024

घोषणा की तारीख/Date of Pronouncement

: 22.03.2024

आदेश /ORDER

Per Shri Duvvuru RL Reddy, Judicial Member :

This appeal is filed by the assessee against the order of Commissioner of Income Tax (Appeals) [CIT(A)], Hyderabad-9 in DIN & Order No. ITBA/APL/S/250/2020-21/1027691960(1) dated 11.08.2020, arising out of order passed u/s 143(3) of the Income Tax Act, 1961 (in short 'Act') dated 21.03.2014 for the Assessment Year (A.Y.) 2011-12.

2. Brief facts of the case are that the assessee filed return of income, admitting total taxable income at Rs.2,80,551/-. The return was processed u/s 143(1) of the Act. The assessment was completed and the Assessing Officer(AO) passed order u/s 143(3) of the Act dated 21.03.2014, assessing the total income of the assessee at Rs.1,11,69,494/- and raised demand of tax payable at Rs.44,71,940/-.

3. Aggrieved by the order of the AO, the assessee preferred an appeal before the CIT(A) and the Ld.CIT(A) dismissed the appeal of the assessee as time barred.

4. Aggrieved by the order of the Ld.CIT(A), the assessee preferred an appeal before the Tribunal with the delay of 517 days by raising the following grounds of appeal :

1. *On the facts and in the circumstances of the case, the order passed by the Learned Commissioner Appeals is erroneous in law and facts of the case.*

2. *On the facts and in the circumstances of the case, the learned Commissioner Appeals erred in law and facts of the case in dismissing the appeal as time barred. On the facts and in the circumstances of the case, considering the affidavit filed in support of condonation of delay, the Learned Commissioner Appeals ought to have condoned the delay and adjudicated the appeal on merits.*

3. *On the facts and in the circumstances of the case, the Learned Commissioner Appeals erred in law and facts of the case in confirming the addition of Rs.1,01,20,183/- made by the Assessing Officer u/s 69 of the Income Tax Act, 1961 by dismissing the appeal as time barred.*

4. *The appellant craves leave to, add to, alter, delete, substitute, amend or modify all or any of the grounds mentioned above.*

5. At the outset, the Ld.AR in the present case, Shri C.Subrahmanyam, filed a petition for withdrawing Vakalat as the assessee has not provided the required documents to pursue the appeal. He has also informed the same to the assessee who was also present in the court for hearing. The assessee did not file any petition for condonation of delay.

6. On the other hand, the Ld.DR submitted that there was huge delay of 3 years 4 months in filing the appeal before the Ld.CIT(A) and the assessee has not given valid reasons to condone the delay before the Ld.CIT(A). Therefore, the Ld.CIT(A) dismissed the appeal as time barred. Thereafter, the assessee preferred an appeal before the Tribunal with the delay of 517 days, but the assessee has not given any reason to explain the delay before the Tribunal inspite of giving several opportunities. Therefore, the Ld.DR pleaded to dismiss the appeal *in-limine*.

7. We have heard both the parties and perused the material available on record. The Ld.CIT(A) dismissed this appeal, observing that *“considering the unsubstantiated, incorrect and misleading statements and the overall conduct of the appellant, substantial delay of 3 years 4 months 18 days, in filing the appeal, cannot be condoned. No reasonable cause for the delay has been brought on record. Accordingly, the appeal is not*

admitted and dismissed as time barred.” After considering the above observation of the Ld.CIT(A), it is clear that the assessee has not given justification to condone huge delay of 3 years 4 months 18 days before the Ld.CIT(A). Even the assessee preferred appeal before the Tribunal with a huge delay of 517 days. When the assessee was asked by the Bench about the delay of 517 days to prefer this appeal before the Tribunal, the assessee replied that he was suffering with ill health, due to which, he did not file the appeal on time. Even though the Ld.CIT(A) and the Tribunal has given sufficient time to file the condonation petition, the assessee has not filed condonation petition either before the Ld.CIT(A) or before the Tribunal. The assessee has not filed any proof to establish that he was suffering with ill health. In view of the foregoing facts and circumstances of the case, we are of the view that the assessee has substantiated his case neither before the Tribunal nor before the Ld.CIT(A). Therefore, we do not find any infirmity in the order passed by the Ld.CIT(A) and dismiss the appeal filed by the assessee *in-limine*. Accordingly, the grounds raised by the assessee are dismissed.

8. In the result, appeal of the assessee is dismissed *in-limine*.

Order pronounced in the open court on 22nd March, 2024.

Sd/-

(एस बालाकृष्णन)

(S.BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER

Dated : 22.03.2024

L.Rama, SPS

Sd/-

(दुव्वूरु आर.एल रेड्डी)

(DUVVURU RL REDDY)

लेखा सदस्य/ACCOUNTANT MEMBER न्यायिक सदस्य/JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee - Mahesh Gurram, 39-33-100/2, Plot No.401
Opp.East Park, Visakhapatnam
2. राजस्व/The Revenue – The Income Tax Officer, Ward-2(1), Income Tax
Office, Infinity Towers, Visakhapatnam
3. The Principal Commissioner of Income Tax, Rajahmundry
4. विभागीय प्रतिनिधि, आयकर अपीलिय अधिकरण, विशाखापटणम / DR,ITAT, Visakhapatnam
- 5..गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam