

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' 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 No.123/Mds/2016

निर्धारण वर्ष / Assessment Year : 2011-12

S-9787, K. Kondappanaickenpatty  
PACB Ltd.,  
Yercaud Main Road,  
Kannankurichi Post,  
Salem – 636 008.

v. The Income Tax Officer,  
Ward I (4),  
Salem.

PAN : AAEAS 5865 N

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.124/Mds/2016

निर्धारण वर्ष / Assessment Year : 2011-12

S-681, Chinnathirupathy PACB Ltd.,  
Chinnathirupathi,  
Salem – 636 008.

v. The Income Tax Officer,  
Ward I (4),  
Salem.

PAN : AAATT 5833 A

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellants by : Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri Shiva Srinivas, JCIT

सुनवाई की तारीख/Date of Hearing : 26.10.2016

घोषणा की तारीख/Date of Pronouncement : 11.11.2016

**आदेश / O R D E R**

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

Both the appeals of the independent assesseees are directed against the respective orders of the Commissioner of Income Tax (Appeals), Salem, dated 27.10.2015 and pertain to assessment year 2011-12. Since common issue arises for consideration in these appeals, we heard both the appeals together and disposing of the same by this common order.

2. There was a delay of 17 days in filing both the appeals. The Ld.counsel for the assessee explained that the assesseees being co-operative societies, had to get approval from the Board for filing appeals before this Tribunal. Therefore, there was a delay in filing these appeals. We heard Ld. Departmental Representative also. We find there is a reasonable cause on the part of the assesseees for not filing the appeals within the prescribed period. Therefore, the delay of 17 days is condoned and the appeals are admitted.

3. Shri S. Sridhar, the Ld.counsel for the assessee, submitted that there was a delay of 190 days in filing both the appeals before the CIT(Appeals). The CIT(Appeals), however, refused to condone

the delay. According to the Ld. counsel, the co-operative society is managed by a Board. Obtaining approval from the Board delayed the process of filing the appeals. Therefore, according to the Ld. counsel, the delay was beyond the control of the assessee.

4. We heard Shri Shiva Srinivas, the Ld. Departmental Representative, also. According to the Ld. D.R., the procedure for filing of the appeals after getting approval from the Board is irrelevant as far as the Income-tax Act is concerned. It is for the assessee to get necessary approval from the concerned authority and file the appeals within the time prescribed under the Income-tax Act. Therefore, there was no reasonable cause on the part of the assessee for not filing the appeals within the prescribed period before the CIT(Appeal). Therefore, according to the Ld. D.R., the CIT(Appeals) has rightly refused to condone the delay.

5. We have considered the rival submissions on either side and perused the relevant material available on record. Normally, co-operative society is administered by the elected representatives of the members. From the material available on record it appears that the elected representatives of the members were superceeded and the administration was handed over to the Board. Therefore, the

assessee had to necessarily obtain approval from the Board for filing the appeals. This Tribunal is of the considered opinion that the time limit prescribed under the Income-tax Act for filing appeal before this Tribunal will not create any vested interest on the income-tax authorities. It is only to bring the litigation to an end within the time prescribed. Even though the limitation prescribed is expected to be followed by both the parties, this Tribunal is of the considered opinion that the delay in getting the approval of the Board in filing the appeals is reasonable cause for not filing the appeals within the specified period. Therefore, the assesseees were beyond their control in filing the appeals. Hence, the CIT(Appeals) is not justified in rejecting the petition for condonation of delay. Accordingly, the delay of 190 days in filing the appeals before the CIT(Appeals) is condoned in both the appeals. Now both the appeals of the assesseees stand restored in the file of the CIT(Appeals). The CIT(Appeals) is hereby directed to dispose of the appeals on merit.

6. Accordingly, the orders of the lower authority are set aside and the delay of 190 days is condoned and the appeals stand restored in the file of the CIT(Appeals).

7. In the result, both the appeals of the assesseees are allowed.

Order pronounced on 11<sup>th</sup> November, 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
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चेन्नई/Chennai,  
दिनांक/Dated, the 11<sup>th</sup> November, 2016.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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