

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

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

आयकर अपील सं./ITA No.279/Chny/2019

निर्धारण वर्ष /Assessment Year : 2013-14

Shri G.P. Saravanan,  
No.7, Vignesh Nivas, BV Nagar,  
5<sup>th</sup> Street Extension, Adyar,  
Chennai - 600 020.

v. The Income Tax Officer,  
Non Corporate Ward 15(4),  
Chennai - 600 034.

PAN : APCPS 5777 H

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Ms.A. Sushma Harini, Advocate

प्रत्यर्थी की ओर से / Respondent by : Shri AR.V. Sreenivasan, JCIT

सुनवाई की तारीख/Date of Hearing : 30.04.2019

घोषणा की तारीख/Date of Pronouncement : 10.05.2019

### **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) -15, Chennai, dated 31.12.2018 and pertains to assessment year 2013-14.

2. Ms. A. Sushma Harini, the Ld.counsel for the assessee, submitted that the assessee filed the appeal manually on 02.05.2016. The assessee also filed appeal on-line on 22.12.2018. According to the Ld. counsel, the CIT(Appeals) found that the appeal has to be e-filed mandatorily with effect from 01.03.2016. Accordingly, he found that there was a delay in filing the appeal. The CIT(Appeals) found that there was a delay of 2-1/2 years. Therefore, according to the Ld. counsel, without going into the merit of the appeal, the same was rejected *in limine*.

3. We heard Shri AR.V. Sreenivasan, the Ld. Departmental Representative also. According to the Ld. D.R., it is a mandatory requirement of law to e-file the appeal with effect from 01.03.2016. Admittedly, the appeal was filed only on 22.12.2018, therefore, there was a delay of 2-1/2 years. Since there was no explanation forthcoming from the assessee, according to the Ld. D.R., the same was rejected.

4. Having heard the Ld.counsel for the assessee and the Ld. D.R., this Tribunal finds that the appeal was manually filed on 02.05.2016. It is not the case of the Revenue that any defect memo was issued or the appeal was returned. When the appeal was filed

by the assessee manually, if it is not in tune with the statutory requirement, it is for the CIT(Appeals) either to issue a defect memo or to return the appeal filed manually, to the assessee. Admittedly, no such action was taken by the CIT(Appeals). The appeal was e-filed on 22.12.2018. Therefore, this Tribunal is of the considered opinion that when the assessee admittedly filed the appeal manually on 02.05.2016 and also e-filed on 22.12.2018, the assessee's e-filing of appeal would relate back to the original date of filing appeal manually on 02.05.2016. In other words, there is no delay in filing the appeal. If e-filing of appeal on 22.12.2018 relates back to manual filing of appeal on 02.05.2016, there is no delay at all. Hence, the CIT(Appeals) ought to have disposed of the appeal on merit. In view of the above, we are unable to uphold the orders of the authorities below. Accordingly, orders of both the authorities below are set aside and the entire issue is remitted back to the file of the CIT(Appeals). The CIT(Appeals) shall consider the appeal on merit and dispose the same in accordance with law, after giving a reasonable opportunity to the assessee.

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the court on 10<sup>th</sup> May, 2019 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 10<sup>th</sup> May, 2019.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|--|--------------------------|
| 1. अपीलार्थी/Appellant                   | 2. प्रत्यर्थी/Respondent |
| 3. आयकर आयुक्त (अपील)/CIT(A)-15, Chennai | 4. CIT-6, Chennai        |
| 5. विभागीय प्रतिनिधि/DR                  | 6. गार्ड फाईल/GF.        |