

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: **988/CHNY/2025**

निर्धारण वर्ष/Assessment Year: 2018-19

**Weaker Section and Tribal
Rehabilitation Charitable
Trust,**

Door No.12/19,
Velapoosari Street,
Othakkal Mandapam,
Coimbatore – 641 032.

The ACIT (Exemptions),
Vs. Coimbatore.

PAN: AAATW 2715N

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri Kumar Chandan, JCIT

सुनवाई की तारीख/Date of Hearing

: 18.06.2025

घोषणा की तारीख/Date of Pronouncement

: 23.06.2025

आदेश /O R D E R

PER GEORGE GEORGE K, VICE PRESIDENT:

This appeal filed at the instance of the assessee is directed against the order of Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi dated 23.11.2023 passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2018-19.

2. There is a delay of 429 days in filing the appeal. The assessee has filed condonation petition along with affidavit of the authorized signatory of assessee trust stating therein the reasons for belated filing of this appeal. The reasons stated in the affidavit for belated filing is, that the assessee and its Chartered Accountant were not very conversant with the electronic regime of the income tax proceedings resulting in delay in filing the appeal. Further, the Managing Trustee of the assessee trust was also struggling with health issues due to which the assessee was unable to co-ordinate regularly with its chartered accountant. On perusal of the aforesaid reason stated, we are of the view that the assessee cannot be faulted for non-filing the appeal on time. There is sufficient reason and no latches can be attributed to the assessee for belated filing of this appeal. Hence, we condone the delay in filing the appeal and proceed to dispose off the appeal on merits.

3. At the very outset, we notice that the First Appellate Authority's (FAA) order is ex-parte, since there was no compliance from the assessee to various notices issued from the office of the First Appellate Authority. We also note that the FAA had dismissed the appeal of the assessee *in-limine* without adjudicating the issues on merits.

4. The Ld.AR submitted that the assessee could not respond to the notices or appear before FAA during the appellate proceedings since the assessee and its Chartered Accountant were not conversant with the electronic regime of the income tax proceedings. The Ld.AR further submitted that the FAA has dismissed the appeal for non-compliance and not on merits. Further, the Ld.AR has submitted that the assessment has also been completed on best judgment basis u/s.144 of the Act. It was prayed, in the interest of justice and equity, assessee may be provided with one more opportunity to present its case before the AO.

5. The Ld.DR submitted that adequate opportunities were provided from the offices of the FAA and there is no violation of principles of natural justice. However, he could not controvert the fact that the FAA has dismissed the appeal for non-compliance.

6. We have heard rival submissions and perused the materials on record. We noted that the CIT(A)-NFAC has simpliciter dismissed the appeal for non-compliance and not adjudicated or decided merits of the case. We find that appellate authority has no jurisdiction to dismiss the appeal for default of non-compliance without going into merits. The FAA is bound to decide the appeal on merits even in the absence of assessee. This view of ours is supported by the decision

of Hon'ble High Court of Madras in the case of Southern Steel Industries vs. AAC (CT), reported in [1996] 101 STC 273 (Mad). In term of the above, the order of the FAA is set aside.

7. Further, we note that the assessment has also been completed on best judgment basis u/s.144 of the Act by denying exemption u/s.11 of the Act. For the previous assessment year 2017-18, there was a scrutiny assessment u/s.143(3) giving benefit of section 11 of the Act. Therefore, for this reason also, we are remitting back the issue to the file of the AO for fresh adjudication after allowing reasonable opportunity of being heard to the assessee. The assessee is directed to co-operate with the Revenue and shall not seek unnecessary adjournment. It is ordered accordingly.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 23rd June, 2025 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

(S.R. RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 23rd June, 2025

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)

उपाध्यक्ष /VICE PRESIDENT

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Coimbatore
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.