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

श्रीमहावीर सिंह, उपाध्यक्ष एवंश्री मनोज कुमार अग्रवाल, लेखा सदस्यके समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENTAND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./**I.T.A No.:1725/CHNY/2019**
निर्धारण वर्ष/ **Assessment Year 2014 - 2015**

Shri. R. Balachandran, No.23C/1, T.P.K. Road, Pykara, Madurai – 625 004. **PAN : AFXPB 2514G**	Vs.	The Assistant Commissioner of Income Tax, Non-Corporate Circle – 1, Income Tax Department, CR Building, No.2, VP VP Rathinasamy Nadar Road, Bibikulam, Madurai – 625 002.
(अपीलार्थी/**Appellant)**		(प्रत्यर्थी/**Respondent)**

अपीलार्थीकीओरसे/Appellant by	: Mr. S. Sridhar, Advocate
प्रत्यर्थीकीओरसे/Respondent by	: Mr. ARV Sreenivasan, Addl. CIT
सुनवाई की तारीख/Date of Hearing	: 01.08.2022
घोषणा की तारीख/Date of Pronouncement	: 03.08.2022

आदेश /O R D E R

PER MAHAVIR SINGH, VP:

This appeal by the Assessee is arising out of the revision order passed by the Principal Commissioner of Income Tax, Madurai – 1, u/s.263 of the Income Tax Act, 1961 (hereinafter "the Act") vide order No.C.No.401/55/PCIT/MDU-1/2018-19; vide order dated 27.03.2019.

The Assessment was framed by the Assistant Commissioner of Income Tax, Non-Corporate Circle – 1, Madurai for the Assessment Year 2014 – 2015 u/s.143(3) of the Act vide order dated 30.12.2016.

2. At the outset, it is noticed that this appeal by the Assessee is time barred by limitation by four days. The Assessee had filed a condonation petition along with the affidavit stating that the impugned order dated 27.03.2019 was received by the Assessee on 28.03.2019 and that the appeal was to be filed on or before 27.05.2019 with the Tribunal but actually the appeal was only filed on 31.05.2019 and hence there is a delay of four days.

The learned Counsel for the Assessee explained that the delay in preparing the appeal was for the reason that the Assessee became ill during that period and even during the last week of May he could not attend to work.

3. When these facts were confronted to the learned Senior Departmental Representative, he could not

controvert to the facts given in the affidavit. We noted that the small delay of four days and the reason stated seems reasonable. Hence, we condone the delay and admit the appeal for adjudication on merits.

4. The learned Counsel for the Assessee stated that the Principal Commissioner of Income Tax has not allowed an opportunity of being heard and had passed an ex-parte order without hearing to the Assessee. For this, the learned Counsel for the Assessee relied on the following Ground Nos.2 and 3, as under:

> "2. The PCIT erred in setting aside the order of the Assessing Officer passed u/s.143(3) dated 30.12.2016 as erroneous and prejudicial to the interest of the Revenue without assigning proper reasons and justification.
>
> 3. The PCIT failed to appreciate that the order of revision under consideration was passed out of time, invalid, passed without jurisdiction and not sustainable both on facts and in law and further ought to have appreciated that any order passed in violation of the principles of natural justice should be reckoned as nullity in law while vitiating the exparte revision order."

5. From the revision order, the learned Counsel for the Assessee showed us that a show-cause notice dated 14.01.2019 was issued fixing the matter for hearing on

29.01.2019. On the fixed date of hearing, none was present and finally the PCIT vide order dated 27.03.2019 directed the revision on the assessment order passed u/s.143(3) of the Act for the reason that the Assessee has admitted an income of Rs.1,05,23,375/- under the head 'income from other sources' towards undisclosed investment in the construction of a hospital building vide sworn statement dated 26.05.2014, but this aspect was not considered by the Assessing Officer.

6. When these facts were confronted to the learned Senior Departmental Representative, he contested in sending back the matter back to the file of the Principal Commissioner of Income Tax.

7. After hearing the rival contentions and on going through the facts that the PCIT has not allowed an opportunity of being heard to the Assessee, i.e. a reasonable opportunity, but no doubt, he has fixed the case for hearing on 29.01.2019. According to us, the Assessee

should have been allowed a reasonable opportunity of being heard in terms of the principles of natural justice. Since, the PCIT has not followed the principle of natural justice, we set aside the order of the PCIT and remand the matter back to his file for allowing one more opportunity to the Assesssee to represent his case and accordingly the PCIT will have to pass a revision order afresh after hearing to the Assessee.

8. In the result, the appeal of the Assessee in I.T.A No.:1725/CHNY/2019 is allowed for statistical purposes.

Order pronounced in the court on 3rd August, 2022 at Chennai.

Sd/-
(मनोज कुमार अग्रवाल)
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,
दिनांक/Dated, the 3rd August, 2022
IA, Sr. PS
आदेशकीप्रतिलिपिअग्रेषित/**Copy to:**
1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF