

**आयकर अपीलीय अधिकरण 'सी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI**

**माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
माननीय श्री मनोमोहन दास, न्यायिक सदस्य कक्षसमक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM AND
HON'BLE SHRI MANOMOHAN DAS, JUDICIAL MEMBER**

1. आयकरअपील सं./ ITA No.1115/Chny/2023
(निर्धारण वर्ष / Assessment Year:(2013-14) (26Q-Q2)
&
2. आयकरअपील सं./ ITA No.1116/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2013-14) (24Q-Q2)
&
3. आयकरअपील सं./ ITA No.1117/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2013-14) (26Q-Q3)
&
4. आयकरअपील सं./ ITA No.1118/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2013-14) (24Q-Q4)
&
5. आयकरअपील सं./ ITA No.1119/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2013-14) (24Q-Q3)
&
6. आयकरअपील सं./ ITA No.1120/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2013-14) (26Q-Q4)
&
7. आयकरअपील सं./ ITA No.1121/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2014-15) (24Q-Q1)
&
8. आयकरअपील सं./ ITA No.1122/Chny/2023
(निर्धारण वर्ष / Assessment Year: 2014-15) (26Q-Q1)
&
9. आयकरअपील सं./ ITA No.1123/Chny/2023

(निर्धारण वर्ष / Assessment Year: 2014-15) (24Q-Q2)

&

10. आयकरअपील सं./ ITA No.1124/Chny/2023

(निर्धारण वर्ष / Assessment Year: 2014-15) (26Q-Q2)

M/s.Adithya Ferro Alloys Pvt.Limited, C/o. M/s.S.Sathiyarayanan (Advocates) F1-PRP Block, Rose Part Apartments, 10,Shanthi Nagar 1 st Cross Street, Adambakkam, Chennai-600 088.	<u>बनाम/</u> Vs.	AO / ITO, TDS Trichy.
स्थायीलेखासं./जीआइआरसं./PAN/TAN No.AADCA-7425-M / CHEA08995-A		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Sathyanarayanan (Advocate) -Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri N.S.Phanidharan (JCIT)-Ld. DR

सुनवाईकीतारीख/ Date of Hearing	:	18-12-2023
घोषणाकीतारीख / Date of Pronouncement	:	18-12-2023

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. All these appeals have been filed by the assessee for various quarters of Assessment Years (AY) 2013-14 & 2014-15. The Assessment Year has wrongly been mentioned at few places in impugned orders as well as in Form 36 which appears to be merely typographical errors. Nevertheless, we proceed with adjudication of these appeals. It is admitted fact that the impugned order is pari-materia the same for all the years.

2. The assessee was saddled with impugned fees u/s 234E by TDS, CPC for late filing of quarterly TDS returns. The assessee assailed the same with inordinate delay of more than 3000 days in each of the appeal

which resulted into dismissal of the appeals by first appellate authority for want of condonation of delay. The Ld. CIT(A) noted that there was no sufficient cause for such an inordinate delay of more than 8 years and accordingly, the appeals were not admitted. Aggrieved, the assessee is in further appeal before us.

3. Even before us, the registry has noted delay of 177 days in each of the appeal, the condonation of which has been sought by Ld. AR on the strength of identical worded affidavits of Managing Director of Assessee Company. It has been submitted that the delay was neither willful nor deliberate but due to the time involved in collating the relevant data since Chartered Accounts were busy with the year-end book closure, return filings and other audit engagements. It has also been submitted that delay was further caused due to the time involved in collecting the papers from Chartered Accountants and delivering it to the advocates. The Ld. Sr. DR, on the other hand, pleaded for dismissal of all the appeals at its threshold. Having heard rival submissions and after perusal of impugned orders, our adjudication would be as given in succeeding paragraphs.

4. It is undisputed fact that there was delay in filing of quarterly TDS returns and accordingly, while processing TDS returns, CPC (TDS) has levied fees u/s 234E. The assessee remained silent for more than 8 years and suddenly assailed the same before first appellate authority which got dismissed for want of condonation of delay. The Ld. CIT(A) noted that the assessee did not furnish any documentary evidence in support of sufficient cause except filing an old affidavit repeating the same statement of resignation of staff etc. Upon perusal of the same, it

was to be concluded that the assessee did not have any sufficient cause seeking condonation of delay and it was conscious decision of the assessee not to contest the levy of impugned fees since the same was mandatory in nature.

5. The Hon'ble Supreme Court, in the case of **Perumon Bhagvathy Devaswom, Perinadu Village Vs. Bhargavi Amma (Dead) by LRs, (2008) (8 SCC 321)**, has pertinently observed that the decisive factor in condonation of delay is not the length of delay but sufficiency of a satisfactory explanation. The degree of leniency to be shown by a court depends on the nature of application and facts and circumstances of the case. The expression "sufficient cause" should receive a liberal construction so as to advance substantial justice, when the delay is not on account of any dilatory tactics, want of bona fides, deliberate inaction or negligence on the part of the appellant. In a situation where there exists inordinate delay and the same is attributable to the party's inaction and negligence, the Courts have to take a strict approach so as to protect the substantial rights of the parties. The courts would refuse to exercise discretionary powers if it is found that the applicant had neglected / omitted to assert its rights in a timely manner. A distinction has to be made between inordinate delay and delay of few days.

6. In the present case, we are of the considered opinion that the assessee has remained negligent in filing the appeals before first appellate authority as well as before us. It is clear that the statutory right to appeal which was vested with the assessee has not been exercised within the stipulated time as provided under law. It is a case of lapses which is directly the result of deliberate inaction on the part of the

assessee. Therefore, we dismiss all the appeals at its threshold for want of condonation of delay. Even otherwise, there is no sufficient cause with the assessee seeking condonation of inordinate delay of more than 8 years before first appellate authority.

7. In the result, all the appeals are dismissed as aforesaid.

Order pronounced in open court on 18th December, 2023.

Sd/-
(MANOMOHAN DAS)
न्यायिक सदस्य / JUDICIAL MEMBER

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

चेन्नई Chennai; दिनांक Dated :18-12-2023
DS

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF