

society, he only use to take care of the matters relating to the taxation of the society but due to his illness he could not file the appeal in time. The delay was on account of his illness as he was suffered from end stage renal disease during the period and he had to go for dialysis twice a week due to the said reason, he could not attend the matter relating to the tax affairs of the assessee society. The Ld. counsel has further invited our attention to the another affidavit moved by the present Director of the society dated 24.4.2018 namely Shri Saurabh Aganhotri, wherein, it has been deposed that earlier the tax matter was used to be handled by the then president of the society Shri A.C. Aganihotri, however, due to his illness he could not arrange to file the appeal in time. Further, that Shri A.C. Aganihotri, the then president of the society subsequently died due to Chronic Kidney Disease. A copy of the death certificate of Shri A.C Aganihotri is also placed on the file. Reliance has also been placed on the medical record of Shri A.C. Aganihotri, the then president of the society.

3. The Ld. DR, on the other hand, has supported the order of the Commissioner of Income Tax.

4. Considering the above submissions of both the representatives, we find that the assessee society has demonstrated a reasonable cause for not filing the appeal in time. In view of this, the delay, if any, in filing the appeal is hereby condoned and we proceed to hear the matter on merits.

5. The Ld. Counsel for the assessee has invited our attention to the impugned order of the Ld. CIT, wherein, the reasons of rejection of application of the applicant society has been mentioned that the assessee society had used the funds for the personal needs of the family members of the president of the society also for the staff of the society. Further, it was also noted that the assessee society had been paid hefty salary to one of its employee. Further it has been noted that though the assessee was asked to explain in this respect, however, the assessee society failed to give any satisfactory reply. The Ld. counsel for the assessee in this respect has submitted that, in fact, the members of the society had taken loan in their individual capacity from the bank which was given to the society as such and the said loan amount was further paid by the assessee society to the members to be further paid back to the bank from where the loans were obtained. The loan amount was squared off on the date of application. Further, the queries in this respect were raised by the Ld. CIT only on 19.7.2013 whereas the order was passed on 23.7.2013 and no opportunity was granted to the assessee society to present its case and furnish the necessary explanation.

5. In view of the above submissions of the Ld. Counsel for the assessee, in our view, the assessee society is required to be given proper opportunity to give the necessary explanation about the queries raised by the Ld. CIT . The impugned order of the Ld. CIT(E) is, therefore, set aside and the matter is restored to the file of the

CIT for decision afresh on merits, after giving proper opportunity to the applicant society to present its case / explanation. The Ld. CIT is directed to decide the application of the applicant society within 6 months from the date of receipt of copy of this order.

6. The appeal of the applicant - assessee is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 14.08.2018

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Dated 14.08.2018

Rkk

Copy to:

- *The Appellant*
- *The Respondent*
- *The CIT*
- *The CIT(A)*
- *The DR*