

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES "D" : DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER  
AND  
SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA.No.8047/Del./2018  
Assessment Year 2014-2015

M/s. Krishi Utpadan Mandi Samiti, Dataganj, Badaun, Uttar Pradesh PIN 243635 PAN AABTK0498F	vs.	The ITO, Range-2(3), Income Tax Office, Near Indira Chowk, Station Road, Badaun.
(Appellant)		(Respondent)

ITA.No.8048/Del./2018  
Assessment Year 2014-2015

M/s. Krishi Utpadan Mandi Samiti, Bijnor, Uttar Pradesh PIN 246701 PAN AABTK1245J	vs.	The ITO, Range-3(3), Income Tax Office, Civil Lines, Bijnor
(Appellant)		(Respondent)

For Assessee :	Ms. Shweta Mittal, C.A.
For Revenue :	Shri Naina Soin Kapil, Sr.D.R.

Date of Hearing :	31.07.2019
Date of Pronouncement :	01.08.2019

**ORDER**

**PER BHAVNESH SAINI, J.M.**

Both the appeals by different Assesseees are directed against the different Orders of the Ld. CIT(A), Moradabad, Dated 31.10.2018, for the A.Y. 2014-2015.

2. We have considered the rival submissions and perused the findings of the authorities below.

ITA.No.8047/Del./2018 :

3. In this appeal, the Ld. CIT(A) noted that there was a delay of 33 days in filing the appeal before him. It was contended by the assessee before the Ld. CIT(A) that it came to their knowledge from the notice of demand dated 22.08.2017 which was received on 29.08.2017 that demand of Rs.74,19,900/- has illegally been raised upon us by the Income Tax Department. The last date for filing of the appeal was 27.09.2017, but, the appeal is filed on 01.11.2017. There was a delay of 33 days which took place on the ground of the fact that notice was initially misplaced by their Accountant and the same escaped attention. The matter surfaced only when our Income Tax Counsel informed us about the demand reflecting on income tax e-filing website. The assessee, therefore, prayed that delay in filing the appeal may be condoned. The Ld. CIT(A), however, noted that the reason that appeal could not be filed on time as the demand notice were initially misplaced by the

Accountant and the same escaped attention is very feeble and weak. The assessee has however paid the prescribed fee for filing of the appeal within the period of limitation. Therefore, appeal of assessee were dismissed.

4. After considering the rival submissions, we are of the view that the Ld. CIT(A) should have condone the delay in filing the appeal before him. There is a nominal delay in filing the appeal. The assessee would not get any benefit if appeal is not filed within the period of limitation. The assessee paid the appeal fees within the period of limitation would show that assessee has taken steps diligently and wanted to file appeal against the assessment order. The reason given by the assessee is acceptable that delay was on account of misplacement of the notice by the Accountant. Thus, assessee was prevented by sufficient cause in not filing the appeal within the period of limitation. We, therefore, condone the delay in filing the appeal before the Ld. CIT(A). Accordingly, we set aside the impugned order and restore the appeal of assessee to the file of Ld. CIT(A) with a direction to re-decide the appeal of assessee on

merits in accordance with law, by giving reasonable, sufficient opportunity of being heard to the assessee.

5. In the result, ITA.No.8047/Del./2018 of the Assessee is allowed for statistical purposes.

ITA.No.8048/Del./2018 :

6. Similarly, the present appeal is time barred by 176 days. The reason is same as have been considered in other appeal. Following the reasons for decision in ITA.No.8047/Del./2018, we condone the delay in filing the appeal before the Ld. CIT(A). We, accordingly, set aside the impugned order of the Ld. CIT(A) and restore the appeal to his file with a direction to re-decide the appeal of assessee on merits in accordance with law, by giving reasonable, sufficient opportunity of being heard to the assessee.

7. In the result, ITA.No.8048/Del./2018 of the Assessee is allowed for statistical purposes.

8. To sum-up, both the appeals of different Assesseees are allowed for statistical purposes.

Order pronounced in the open Court.

Sd/-  
(R.K. PANDA)  
ACCOUNTANT MEMBER

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Delhi, Dated 01<sup>st</sup> August, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'D' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :  
Delhi.