

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES “ A ” BENCH: BANGALORE
**BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER
AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA. No.959/Bang/2019
(Assessment Year: 2006-07)

Shri D. Dasappa, No.34/2, 5 th Main, Gandhinagar, Bengaluru – 560 009 PAN: ANAPD 8675M	Vs.	Asst. Commissioner of Income Tax, Circle – 2(3)(1), Bangalore.
(Appellant)		(Respondent)

Assessee By: Shri K.P.Srinivas, C.A.
Revenue By: Shri C.H. Sundar Rao, CIT (D.R)

Date of Hearing :	06.08.2019
Date of Pronouncement :	06.09.2019

ORDER

PER SHRI PAVAN KUMAR GADALE, JM :

The assessee has filed an appeal against the order of learned Commissioner of Income Tax (Appeals)-11, Bangalore passed under Section 143(3) and 250 of the Income Tax Act, 1961.

2. At the time of hearing, the learned Authorised Representative submitted that the learned CIT(Appeals) has passed exparte order and therefore prayed for one more

opportunity to substantiate the case and has not argued other grounds of appeal.

3. We found that the Assessing Officer has passed assessment order under Section 143(3) r.w.s. 263 of the Act Dt.30.12.2016 determining the total income of Rs.21,20,62,127 including Short Term Capital (STCG). Aggrieved by the order, the assessee has filed an appeal with the CIT(Appeals). We found that there is a delay of 52 days in filing the appeal before the appellate authority as mentioned in para 1 of the CIT(Appeals) order. The learned Authorised Representative submitted that the CIT(Appeals) has passed exparte order with observations that the request for condonation of delay in filing the appeal was not filed. Whereas in the course of hearing, the Id. AR submitted that the condonation of delay request has been filed and referred to the Form No.35 filed electronically, where the assessee has explained the reasons for delay in filing the appeal and prayed for condonation of delay. We found the submissions of the learned Authorised Representative are duly supported by the evidence for condonation of delay. Further the CIT(Appeals) has issued notices and posted the case for hearing on 5.7.2017, 17.8.2017, 4.12.2017, 24.1.2019

and finally on 20.02.2019 and none appeared on behalf of the assessee nor adjournment petition was filed. When a query was raised by the Bench to learned Authorised Representative for non-appearance before the appellate authority, the explanations are not satisfactory. But the fact remains that the CIT(Appeals) has dismissed the appeal on the ground that the appeal has been filed beyond prescribed limits and no request for condonation of delay was filed. Prima facie, on the perusal of the Form No.35 demonstrated by the Id. AR, the assessee at the time of filing of the appeal has made a request for condonation of delay which was not brought to the knowledge of the learned CIT(Appeals) as there was no representation by the assessee or Id. AR and the Id. DR supported the orders of the CIT(Appeals).

4. We, considering the facts and circumstances and the condonation petition filed by the assessee and the Id. CIT(Appeals) has dismissed the appeal exparte without condoning the delay. We restore the entire disputed issue to the file of learned CIT(Appeals) to adjudicate afresh considering the condonation petition filed along with the appeal and merits of the case. Further the assessee shall be provided adequate opportunity

of hearing and co-operate in submitting the information for early disposal of the appeal. The grounds of appeal of assessee are allowed for statistical purposes.

5. In the result, the appeal of the assessee are treated as allowed for statistical purposes.

Order pronounced in the open court on 6th Sept., 2019.

Sd/-

(A.K. GARODIA)
ACCOUNTANT MEMBER

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Dated: 06.09.2019.

*Reddy GP

Copy to

1. The appellant
2. The Respondent
3. CIT (A)
4. Pr. CIT
5. DR, ITAT, Bangalore.
6. Guard File

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore