

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD BENCHES (SMC), AHMEDABAD**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

**ITA No.394/Ahd/2018
Assessment Year: 2013-14**

Shri Mayank Jayeshkumar Shah 1/2, Siddhi Apartments Opp Pragatingar Bus station Nranpura Ahmedabad-380013	बनाम/ Vs.	ITO-Ward- (5)(1)(4) Ahmedabad
(Appellant)		(Revenue)
P.A. No.ALLPS1021K		

Appellant by	Smt. Shivna Majumder, A.R.
Respondent by	Shri N.K. Goel, Sr. D.R.
Date of Hearing:	17.09.2019
Date of Pronouncement:	18.09.2019

आदेश / O R D E R

PER KUL BHARAT, J.M:

This appeal by the assessee is directed against order of the CIT(A)-5, Ahmedabad dated 7.12.2017 for the A.Y. 2013-14.

2. At the outset, Ld. Counsel for the assessee submitted that the appeal of the assessee was dismissed by the Ld. CIT(A) on the ground of limitation. Ld. Counsel submitted that the appeal was barred by 135 days. Reason for filing of appeal was that the assessee had pursued remedy u/s 154 of the Income Tax Act, 1961 (hereinafter called as 'the Act') for rectification of the mistake. Ld. Counsel submitted that the assessee has *prima facie* very strong case and every likelihood of the success. Ld. Counsel further submitted that the assessee neither caused any prejudice to the revenue nor filing an appeal after the limitation so prescribed was deliberate. In fact, the assessee was under the bonafide impression that the issue can be rectified u/s 154 of the Act. Ld. Counsel further submitted that an opportunity be granted to the assessee to explain his case before Ld. CIT(A). Ld. Counsel further submitted that gross miscarriage would be caused if the delay is not condoned

and the assessee is not given opportunity of fair representation.

3. Per contra, Ld. D.R. Shri N.K. Goel, Sr. D.R. vehemently opposed the submissions and submitted that the appeal of the assessee has been rightly dismissed by the Ld. CIT(A) as the assessee has not demonstrated reasonable cause for filing belated appeal.

4. I have heard the rival submissions, perused the material available on record and gone through the orders of the authorities below. Admittedly, the present case is not related to civil dispute. There is nothing or material on record suggesting that the assessee had any intention to evade tax. Respectfully following the decision of the Hon'ble Supreme Court in the case of 'N. Balakrishnan dated 3.9.98 (1998) 7 SCC 123' and in the case of 'Collector Land Acquisition Vs. Mst. Katiji & Ors reported in 62 CTR 23 (SC)', the delay in filing appeal before Ld. CIT(A) is hereby

condoned. The grounds of appeal are restored to the file of Ld. CIT(A) to decide on merit. Needless to say that the Ld. CIT(A) would give reasonable opportunity to the assessee to represent his case. The assessee would not seek adjournment on any frivolous grounds.

5. In the result, the appeal of the assessee in ITA No.394/Ahd/2018 for the A.Y. 2013-14 is allowed for statistical purposes.

Order was pronounced in the open court on 18.09.2019.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Ahmedabad; दिनांक Dated : 18/09/2019

VG/SPS

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT (DR)/Guard file.

By order

Assistant Registrar, Ahmedabad