

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

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER  
AND  
SHRI B.R.R. KUMAR, ACCOUNTANT MEMBER

ITA.No.3203/Del./2015  
Assessment Year 2009-2010

The Mahendergarh Central Coop Bank Ltd., Railway Road, Mahendergarh – 123 001. State of Haryana. PAN AAAAT9320K	vs	The Asst. Commissioner of Income Tax, Circle, Model Town, Rewari,
(Appellant)		(Respondent)

For Assessee :	Shri Sanjeev Jain, C.A.
For Revenue :	Ms. Ashima Neb, Sr. D.R.

Date of Hearing :	03.12.2019
Date of Pronouncement :	03.12.2019

**ORDER**

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

This appeal by Assessee has been directed against the Order of the Ld. CIT(A), Rohtak, Dated 27.01.2015, for the A.Y. 2009-2010, challenging the levy of penalty under section 271(1)(c) of the I.T. Act, 1961.

2. In this case Office has reported that appeal of assessee is time barred by 42 days and no petition for

condonation of delay have been filed. The assessee has been intimated of such defect in the appeal by issuing an acknowledgment –cum- notice. Thereafter, the appeal was adjourned many times. On 29.11.2018 appeal was adjourned on the request of Counsel for Assessee. Counsel for Assessee was directed to file application for condonation of delay. However, thereafter, many times appeal was adjourned on the request of Assessee's Counsel, but, no efforts have been made for filing any application for condonation of delay. The record reveals that till date no application have been filed by assessee for explaining the delay in filing the appeal. At the time of hearing of the appeal, the assessee's Authorised Representative merely contended that the delay is on account of getting approval from the Head Office and, therefore, the appeal could not be filed in time. However, no such approval is also available on record. In the absence of any explanation from the side of the assessee to explain delay in filing the appeal, the Ld. D.R. contended that appeal of the assessee may be dismissed being time barred.

3. After considering the submissions of both the parties, we are of the view that appeal is time barred. The assessee despite intimating the defect in the appeal, did not make any effort to file any application for condonation of delay in filing the appeal. Whatever contention was raised at the time of hearing of the appeal, was not supported by any evidence. The Hon'ble Supreme Court in the case of Office of Post Master General & Others vs., Living Media India Ltd., & Others [2012] 348 ITR 7 (SC) held that *"considering the fact that there was no proper explanation offered by the Department for delay, except mentioning of various dates, the Department had failed to give acceptable and cogent reasons sufficient to condone such a huge delay"*. The Hon'ble Supreme Court further observed that *"Government Departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for Government Departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. The law of limitation binds*

*everybody including the Government.*” Considering the facts of the case in the light of above decision of the Hon’ble Supreme Court it is clear that assessee had been most negligent in not taking any steps in filing application for condonation of delay and no acceptable reasons have been explained for delay in filing the appeal. Therefore, appeal of assessee is treated as time barred and the same is accordingly dismissed.

4. In the result, appeal of assessee dismissed being time barred.

Order pronounced in the open Court.

Sd/-  
(B.R.R. KUMAR)  
ACCOUNTANT MEMBER

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Delhi, Dated 03<sup>rd</sup> December, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT “B” Bench
6.	Guard File

// BY Order //

Asst. Registrar : ITAT Delhi Benches : Delhi.