

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**“D” BENCH, AHMEDABAD**

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**  
**AND**  
**Ms. MADHUMITA ROY, JUDICIAL MEMBER**

अपीलसं./ITA No.644/Ahd/2017  
&निर्धारण वर्ष/Asstt. Year:2012-2013

State Bank of India, Zonal Administrative Office, C N Vidhyalaya Campus, Ambawadi, Ahmedabad-380015.  <b>PAN: AAACS8577K</b>	Vs.	I.T.O, TDS-4, Ahmedabad
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<b>(Applicant)</b>		<b>(Responent)</b>
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Assessee by :	Shri S.N. Divatia & Shri Mehul Talera, A.Rs
Revenue by :	Shri Dilip Kumar, Sr. DR

सुनवाई की तारीख/Date of Hearing : 14/11/2019  
घोषणा की तारीख /Date of Pronouncement: 10/12/2019

**आदेश/O R D E R**

**PER Ms MADHUMITA ROY, JUDICIAL MEMBER:**

The instant appeal at the instance of the Assessee is discussed against the order dated 28.04.2015, passed by the Learned Commissioner of Income Tax (Appeals)-8, Ahmedabad, ( in short “ Ld.CIT(A)”) arising out of the order dated 28.03.2014 passed by the Joint Commissioner of Income Tax under section 201(1) & 201(1A) of the Income Tax Act, 1961(herein after referred to as “the act”) for the Assessment Year 2012-2013.

2. It appears that there is 621 days delay preferring the said appeal before us by the appellent. Hence, an application for condonation of delay u/s. 253(5) of the Act has been filed explaining such delay. Upon perusal of the

same it appears that the order date 28.04.2015 passed by the Ld. CIT(A) was communicated to the appellant on 05.05.2015 and thus the appeal was required to be filed on or before 04.07.2015. However, the instant appeal has been filed by the appellant on 15.03.2017 causing 621 days delay. We find the categorical statement made by Chief Manager, HR section Administrative Office, Ahmedabad State Bank of India in the form of affidavit verified on 14.07.2017 before the notary public of Ahmedabad city that as soon as the order was received at this and the same was send to the Central Legal Office Headquarters at Mumbai in order to take the remedial measure thereof. After the decision has been taken by the said Head Office the work of drafting Memo has been assigned to the panel counsel. The draft, so prepared, was thereafter sent for modifications and/or corrections by the concerned person. An application for rectification for the apparent errors of the impugned order, was thereafter, first been decided to make and then to prefer the second appeal before the Hon'ble Tribunal. Accordingly, rectification application, though filed on 03.07.2015 the Zonal Office subsequently has been informed that such rectification application has not been disposed of by the Ld. AO and then it was decided to file the instant file without making any further delay and the panel counsel upon being instructed finally filed the appeal. Thus, it appears there is neither any intentional nor any deliberate delay caused by the assessee but due to unavoidable circumstances the appeal has been filed late before us.

At the time of hearing the instant appeal the Ld. Counsel appearing for the assessee relied upon a judgment passed by the Hon'ble Apex Court that in the case of Collector, Land Acquisition vs. M/s. Ks. Katiji (167 ITR 471) to support his prayer for taking a liberal approach in the application for condonation of delay. He has further relied upon several other judgments mentioned in such affidavit in support of the plea of the assessee for condonation of delay.

3. The Ld. AR, however, with all his fairness has not raised any serious objection to that of genuine contentions made by the Ld. Advocate appearing for the appellant for condoning such delay.

4. Having heard the Ld. Counsel appearing for the parties, having regard to the facts and circumstances of the case, particularly the explanation given by the deponent of the affidavit explaining the real administrative difficulty in preferring the instant appeal before us which in our considered view seems to be genuine and hence the delay is condoned.

5. The brief facts relating to this case is this that some of the employees of the appellant's bank in the administrative section of SM Road, Ahmedabad has visited foreign countries and claimed exemption of LTC/LFC, u/s.192 of the Act for Assessment Year 2012-13. It was further found that during the financial year 2011-12, 10 employees visited foreign countries claimed LTC/LFC aggregating Rs.21,34,655/- which was ultimately added in the hands of the assessee.

6. At the time of hearing of the instant appeal, the Ld. Counsel appearing for the assessee fairly submitted that the issue is covered against the assessee by and under several judgments passed by the Co-ordinate Bench. However, 2 persons out of the said 10 had visited only Port Blair, Andaman & Nicobar Island on 27.04.2011 the payment whereof was made on 27.04.2011 and 15.07.2011 as it appears at page 3 of the order passed by the Ld. CIT(A)'s order, which according to the Ld. AR, being a legitimate claim required to be excluded from the total disallowance made in respect of LTC/LTS for foreign travel.

However, Ld.DR, has not been able to controvert this particular aspect of the matter.

7. Having heard the Ld. Counsel appearing for the parties and having regard to the fact and circumstances of the case, particularly the details of travels of the 2 persons to Andaman & Nicobar Islands, we are of the view to direct the AO to exclude the amount of Rs.1,81,958/- and Rs.1,83,220/- paid to one M C Kalani & Y S Soni respectively appearing at page 3 of the order impugned before us from the total amount disallowance. The Ld. AO is directed to grant relief to the assessee as directed above.

8. In the result, the appeal of the assessee is partly allowed.

**Order pronounced in the Court on 10/12/2019 at Ahmedabad.**

**Sd/-  
(AMARJIT SINGH)  
ACCOUNTANT MEMBER**

**Sd/-  
(Ms MADHUMITA ROY)  
JUDICIAL MEMBER**

**TRUE COPY**

Ahmedabad; Dated 10/12/2019

TANMAY, Sr. PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण / DR, ITAT,
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad