

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES : "B", BANGALORE**

**BEFORE SHRI A.K.GARODIA, ACCOUNTANT MEMBER  
AND  
SMT.BEENA PILLAI, JUDICAL MEMBER**

**ITA Nos.324 to 328(Bang)/2019  
(Assessment years : 2013-14 to 2015-16))  
And  
ITA Nos.1719 to 1721(B)/2019  
(Assessment years : 2013-14 to 2014-15)**

M/s Infycons Creative Software Pvt.Ltd.  
No.7, I Floor, 80 ft. Road,  
Indiranagar,  
Bangalore  
PAN No.  
AABCD0790D

Appellant

**Vs**

The Asst. Commissioner Income Tax Officer,  
CPC, TDS,  
Ghaziabad

Respondent

**Appellant by : Miss. Pragna, Advocate  
Revenue by : Shri K.N.Dhandapani, Addl.CIT**

**Date of hearing : 09-12-2019  
Date of pronouncement : 13-12-2019**

**ORDER**

**PER BENCH :**

Present appeals have been filed by assessee against order dated 26/12/18 and 25/06/19 passed by Ld. CIT (A)-3 Bangalore.

2. Ld.AR submitted that these appeals arise out of intimation under section 200A of the Act, passed by Ld.AO levying interest under section 234E of the Act.

2.1 She submitted that appeal before Ld.CIT(A) for Q3 and Q4 pertaining to assessment years 2013-14, 2014-15 and Q4 pertaining to assessment year 2015-16, was filed with delay of 575,868,152,1001 and 1003 days. It was submitted that delay in filing appeals was due to certain change in organization, and consultant who was in charge of TDS did not track intimations regularly. It was submitted that, for reasons beyond control there was delay to file appeals by assessee against intimation under section 200A of the IT Act, 1961 dated 1-10-2016, 13-05-2014, 31-05-2014, 30-07-2015. Further she submitted that against intimation dated 11-10-2014, though appeal was filed with delay of 868 days, Ld.CIT(A) dismissed the appeal, since appeal filed was found to be defective.

2.2 She further submitted that appeal before Ld.CIT(A), for Q1, Q2 pertaining to assessment year 2013-14 and Q3 pertaining to assessment year 2014-15, filed with a delay of 1955 days. It was submitted that intimations under section 200A were not reflecting in TRACES website and assessee was unaware regarding these intimations. It was only when assessee received a consolidated outstanding demand for payment from the Department that assessee personally went to the concerned TDS jurisdiction to collect these intimations dated 26-10-2013.

2.3 It has thus been submitted that for aforestated bona-fide reasons, assessee could not file appeal before Ld.CIT(A) within the period of limitation.

3. She submitted that Ld.CIT(A) did not admit appeals filed against the order under section 200A of the Act, passed by Ld.AO. It was submitted that there was delay as there existed sufficient cause and delay was not willful or intentional. As has been submitted by Ld.AR, a liberal approach should be adopted in the matter of condonation of delay.

3.1 It is observed that assessee in the applications for condonation of delay gave reasons for delay caused in filing of appeal before Ld.CIT(A), which was not considered. In our considered opinion, Ld.CIT(A) should have appreciated the reason for delay. We observe that the *Hon'ble Supreme Court, in the case of Collector, Land Acquisition v.Mst.Katili & Ors(1987) 167 ITR 471* and also in the case of *Concord of India Insurance Co.Ltd., v.Smt. Nimala Devi and Ors.118 ITR 507.Mst.Katiji(supra)*, has explained the principles that need to be kept in mind while considering an application for condonation of delay. The Hon'ble Apex Court has emphasized that substantial justice should prevail over technical considerations. The Court as also explained that a litigant does not stand to benefit by lodging the appeal late. The Court has also explained that everyday's delay must be explained does not mean that a pedantic approach should be taken. The doctrine must be applied in a rational common sense and pragmatic manner. There is nothing on record brought by Ld.CIT(A) to evidence anything contrary to what has been submitted by assessee. Keeping in

view, principles laid down by the *Hon'ble Supreme Court* referred to herein above, we are of the view that delay in filing appeals before Ld.CIT(A) deserves to be condoned.

3.2 It is observed that Ld.CIT (A) has not decided appeals on merits of the case and therefore we set aside this issue to Ld.CIT(A) to pass detailed order on merits by giving proper opportunity to assessee as per law. Assessee is directed to file all relevant details before Ld.CIT(A) as called for.

**In the result, all appeals filed by assessee stands allowed for statistical purposes.**

Order pronounced in the open court on 3-12-2019.

Sd/-  
**(A.K.GARODIA)**  
**ACCOUNTANT MEMBER**  
Dated: 13-12-2019

Sd/-  
**(BEENA PILLAI)**  
**JUDICIAL MEMBER**

**\*am**

Copy of the Order forwarded to:

- 1.Appellant;
- 2.Respondent;
- 3.CIT;
- 4.CIT(A);
5. DR
6. ITO (TDS)
- 7.Guard File

By Order  
Asst.Registrar