

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES : "A" BENCH : BANGALORE**

**BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER  
AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No. 2017/Bang/2019
Assessment Year: 2012 – 13

M/s. Davangere District Central Co – Operative Bank Ltd., 311, 'A' Block, Devaraja Urs Layout, P. B. Road, DAVANGERE – 577 006. <b>PAN NO : AAATD6617N</b>	<b>Vs.</b>	The Deputy Commissioner of Income – tax, Circle – 1, DAVANGERE.
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Sri. V. Srinivasan, Advocate
<b>Respondent by</b>	:	Ms. Neera Malhotra, CIT – DR

Date of Hearing	:	14.01.2020
Date of Pronouncement	:	17.01.2020

**ORDER**

**PER BEENA PILLAI, JUDICIAL MEMBER:**

Present appeal has been filed by assessee against order dated 27/03/15 passed by Ld.CIT (A) Devangere for assessment year 2012 – 13.

**2.** At the outset Ld. AR submitted that, there is delay of 102 days, in filing appeal before this *Tribunal*. Assessee has filed application for condonation of delay along with affidavit filed by Sh M H Laxman, CEO of assessee. Referring to affidavit dated 16/09/19 filed by Chief Executive Officer of assessee, submitted that, communication gap between assessee and there authorised representative caused the said delay. He submitted that it was not wilful or deliberate on behalf of assessee to file appeal belatedly.

**2.1.** Ld. CIT DR though opposed the application for condoning delay could not controvert that such delay caused on behalf of assessee was not wilful.

**2.2.** We have perused submissions advanced by both sides in light of records placed before us.

In the affidavit filed by the CEO, it has been submitted that as soon as the appellate order was received by assessee it was sent to the representatives of assessee who intimated assessee to send relevant papers for preparation and filing of appeal. It has been submitted that no such papers were received by representatives of assessee, and it was only on 12/09/19 that representative called upon assessee and informed regarding relevant papers having not sent.

**2.3.** On perusal of the affidavit we are of opinion that, there was a *bona fide* reasons for delay in filing present appeal and that assessee has not wilfully abstained from doing so. We therefore, condoned the delay caused in filing present appeal before this *Tribunal*.

**3.** On merits Ld. AR submitted that Ld. CIT (A) dismissed assessee's appeal, as assessing officer reported that assessee has failed to pay tax on income returned. Before us Ld. AR submitted that assessee discharged the self-assessment tax liability on 20/11/12 for year under consideration much before passing the assessment order under section 143 (3) of the act which was dated 27/02/15. He submitted that provisions of section 249 (4) (a) of the Act has been wrongly applied to the present facts of the case without any due verification by Ld. CIT (A).

**3.1.** Ld. CIT DR submitted that present appeal may be set aside to Ld. CIT (A) to decide on merits.

**3.2.** We have perused submissions advanced by both sides in light of records placed before us. It is observed that assessee has paid the self-assessment tax for year under consideration on 20/11/12 which is very clear from the copy of challan filed before us today. Under such circumstances in our view Ld.CIT(A) was wrong in up dismissing the appeal *in limine*, without deciding the issues on merits.

**3.3.** We therefore, set aside this issue back to Ld. CIT (A), with a direction to pass detailed order on merits, after granting proper opportunity of being heard to assessee as per law.

**Accordingly, grounds raised by assessee stands allowed for statistical purposes.**

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

Order pronounced in the open court on 17<sup>th</sup> January, 2020.

**Sd/-**

**(B. R. Baskaran)**  
**Accountant Member**

**Sd/-**

**(Beena Pillai)**  
**Judicial Member**

Bangalore,

Dated 17<sup>th</sup> January, 2020.

/MK/

**Copy to:**

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.