

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE**

**BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER  
AND SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA Nos.345 to 348/Bang/2019
Assessment year : 2013-14

M/s. Infycons Creative Software Pvt. Ltd., No.7, 1 <sup>st</sup> Floor, 80 Feet Road, Indiranagar, Bengaluru - 560 038. <b>PAN : AABCI 0790 D</b>	Vs.	The Assistant Income Tax, CPC (TDC), Ghaziabad.
APPELLANT		RESPONDENT
Assessee by	:	Shri. Balram R. Rao, Advocate
Revenue by	:	Shri. Sunil Kumar Agarwal, Addl. CIT
Date of hearing	:	26.11.2019
Date of Pronouncement	:	30.01.2020

**ORDER**

*Per A. K. Garodia, AM*

All these four appeals are filed by the assessee and the same are directed against four separate orders of learned CIT(A)-3, Bengaluru, all dated 26.12.2018 in respect of late filing of Form 26Q and From No.24Q for quarter 2 & 4 for Financial Year 2012-13. These appeals were heard together and are being disposed of by way of this common order for the sake of convenience.

2. In addition to various grounds raised on merit, this is one of the grounds raised in these four appeals that learned CIT(A) was not justified in not condoning the delay in filing the appeals before him.

3. In the course of hearing, it was submitted by learned AR of the assessee that in para No.4 of his order, learned CIT(A) has reproduced the explanation given by the assessee before him in respect of delay in filing of the appeal. He pointed out that in the said explanation, it was submitted by the assessee before learned CIT(A) that there has been certain changes in the organization and the consultant who was in charge of TDS matters and therefore, the intimations with regard to TDS had not been tracked regularly and as soon as such intimations were tracked, the same were analyzed and appeals were filed immediately and hence, the delay should have been condoned by learned CIT(A). He submitted that in the interest of justice, the delay in filing of appeals before learned CIT(A) should be condoned and the matter should be restored back to the learned CIT(A) for a fresh decision. The learned DR supported the order of the CIT(A).

4. We have considered the rival submissions. First of all, we reproduce para 4 from the order of learned CIT(A) in ITA No.345/Bang/2019, which is as under:

4.0 As discussed supra the appeal has been filed with a delay of 135 days. The appellant has filed a request for condonation of delay by submitting as follows:

*"We wish to submit that the delay in filing the appeal is due to the fact that there has been certain change in the organisation and the consultant who was in-charge of TDS matter had not tracked the intimations regularly. As soon as we found there are certain intimations, we have analyzed the same and now prefer this appeal before your honor. We request your honor to kindly condone the delay in filing the appeal for which act of yours we shall be ever obliged."*

5. In the remaining 3 appeals also, para No.4 of order of CIT(A) is on similar line and the explanation of the assessee regarding delay is similar except there is difference in the number of days of delay. As per the judgment of Hon'ble Apex Court in the case of Collector Land Acquisition Vs. MST. Katiji & Ors., (167 ITR 471) (SC), it was held that when substantial justice

and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. Respectfully following this judgment, we condone the delay in filing of appeals before CIT (A) in all these appeals and restore all the four matters to the file of CIT(A) for decision on merit. In view of this, no adjudication on merit is called for at this present stage and we make no comment on merit.

6. In the result, all the four appeals of the assessee are allowed for statistical purposes.

*Pronounced in the open court on the date mentioned on the caption page.*

Sd/-  
**(PAVAN KUMAR GADALE)**  
**Judicial Member**

Sd/-  
**(A. K. GARODIA)**  
**Accountant Member**

Bangalore.

Dated: 30<sup>th</sup> January, 2020.

/NS/\*

Copy to:

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

By order

Assistant Registrar,  
ITAT, Bangalore.