

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

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

ITA No.1661/Bang/2019
Assessment year : 2014-15

M/s. Trained Brain Education Pvt. Ltd., 116/3A, Krishna Reddy Building, SGR Dental College Building, Near Railway Gate, SGR Dental College Road, Munne Kolala, Marathalli PO, Bengaluru – 560 037. <b>PAN : AADCT 1220 H</b>	Vs.	The Assistant Commissioner of Income Tax, CPC (TDS), Ghaziabad.
APPELLANT		RESPONDENT
Assessee by	:	Shri. Siddesh Gaddi, CA
Revenue by	:	Shri. Sunil Kumar Agarwal, Addl. CIT
Date of hearing	:	03.12.2019
Date of Pronouncement	:	07.02.2020

**ORDER**

***Per A. K. Garodia, AM:***

This appeal is filed by the assessee and the same is directed against the order of the learned CIT(A) - 3, Bengaluru, dated 02.07.2019 for Assessment Year 2014-15.

2. In addition to various grounds raised by the assessee on merit, this is one of the grounds raised by the assessee that learned CIT(A) has erred in law and facts in not condoning the delay in filing the appeal.

3. In the course of hearing, learned AR of the assessee placed reliance on the Tribunal order rendered in the case of M/s. Dr. C Fernandes Co-operative Credit

Society Ltd., Vs. DCIT in ITA Nos.1482 to 1490/Bang/2018 dated 17.01.2019. He submitted that a copy of this Tribunal order is available on pages 1 to 18 of the Paper Book and in particular, our attention was drawn to para 6.1 of this Tribunal order. He submitted that in the present case also, the delay should be condoned and the matter be restored back to file of CIT(A) for a decision on merit. As against this, learned DR of Revenue supported the order of CIT(A). He placed reliance on the judgment of Hon'ble Apex Court rendered in the case of J. V Advani and Co. Pvt. Ltd., Vs. CIT as reported in 72 ITR 395 (SC). He also placed reliance on another judgment of Hon'ble Apex Court rendered in the case of Vedabai alias Vaijyanatabair Baburao Patil Vs. Shantaram Baburao Patil as reported in 253 ITR 798 (SC). At this juncture, the Bench pointed out that the second judgment cited by learned DR of the Revenue is not in the proceedings under IT Act, 1961 and this judgment is in a case between two individuals and therefore, this judgment has no relevance in the present case. In reply, learned DR of the Revenue had nothing to say. But he submitted that in the Tribunal order cited by learned AR of the assessee, the Tribunal has followed the judgment of Hon'ble Apex Court rendered in the case of Collector Land Acquisition Vs. MST Katiji & Ors. 167 ITR 471 (SC) but in that case, the delay was of 4 days only and therefore, this Tribunal order and that judgment of Hon'ble Apex Court rendered in the case the issue of MST Katiji & Ors. (supra) are not applicable in the present case.

4. We have considered the rival submissions. First of all, we reproduce para No.6.1 from the Tribunal order cited by learned AR of the assessee available on page 15 of the Paper Book filed by the assessee. The same reads as under:

6.1 On the issue of condonation of delay on the part of the assessee in filing these appeals before the CIT(A) in the case on hand, it is settled principle, upheld and followed in a catena of decisions that the expression

"sufficient cause" ought to be interpreted in a manner which subserves and advances the cause of substantial justice. A case with arguable / favourable points / contentions on merits should not be shut out on the presumption of limitation, leading to such a case being thrown out at the threshold itself in limine. The Hon'ble Apex Court in the case of Collector, Land Acquisition Vs. MST Katiji and Others (1987) 167 ITR 471 (SC), while laying down the principles for considering matters of condonation of delay in filing appeals, has stated that substantial justice should prevail over technical considerations. Considering the aforesaid principles laid down by the Hon'ble Apex Court, the facts and peculiar circumstances of the case on hand, we are of the considered opinion that this is a fit case for condoning the delay in filing the nine appeals before the CIT(A).

5. As per the facts noted by this Tribunal in the case of M/s. Dr. C Fernandes Co-operative Credit Society Ltd., (supra), the issue in dispute was regarding filing of various quarterly returns for various quarter ended on 30.09.2012 and thereafter and in para 4.3 of that order, it is noted by the Tribunal that the appeals in that case were filed by the assessee after the judgment of Hon'ble Karnataka High Court rendered in the case of Sri Fatheraj Singhvi and others Vs. Union of India and others dated 26.08.2016 and hence in that case also, the delay was not of a few days only but of several months. Hence, we feel it proper to condone the delay in the present case by respectfully following this Tribunal order and in turn following the judgment of Hon'ble Apex Court rendered in the case of MST Katiji (supra). We condone the delay and restore the matter back to the file of CIT(A) for a decision on merit. In view of this decision, no adjudication on merit is called for at the present stage and

we express no opinion on merit. Before parting, we would like to observe that the judgments cited by the learned DR of the revenue are not being considered by us as the issue is covered in favour of the assessee by another judgment of Hon'ble apex court and we are following the same.

6. In the result, the assessee's appeal is allowed for statistical purposes.

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

Sd/-

**(PAVAN KUMAR GADALE)**  
**Judicial Member**

Bangalore.

Dated: 07<sup>th</sup> February, 2020.

/NS/\*

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|---------------|---------------|
| 1. Appellants | 2. Respondent |
| 3. CIT        | 4. CIT(A)     |
| 5. DR         | 6. Guard file |

**(A. K. GARODIA)**  
**Accountant Member**

By order

Assistant Registrar,  
ITAT, Bangalore.