

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

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

<b>ITA Nos.2330 and 2331 /Bang/2018</b>
<b>Assessment year : 2016-17</b>

M/s. Seashell Mediserve Pvt. Ltd., No.15, Lakshmipuram, Halasurau, Bengaluru – 560 008. <b>PAN : AASCS 7959 K</b>	Vs.	Deputy Commissioner of Income Tax, Circle - 6(1)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Ravishankar, Advocate
Revenue by	:	Shri. Manjeet Singh, Addl. CIT (DR)(ITAT), Bengaluru

Date of hearing	:	28.01.2020
Date of Pronouncement	:	20.02.2020

**ORDER**

***Per A.K. Garodia, Accountant Member***

Both these appeals are filed by the assessee and these are directed against two separate orders of learned CIT(A), Bengaluru, dated 22.05.2019, for the Assessment Year 2016-17 in respect of imposition of two separate penalties under section 271(1)(b) of the Income Tax Act, 1961 in respect of two notices issues by the AO on 23.10.2018 and 26.11.2018. Both these appeals were heard together and are being disposed of by way of this common order for the sake of convenience.

2. In both these appeals, several grounds are raised by the assessee but the grievance is only one in each of these two years i.e., regarding confirming penalty imposed by the AO of Rs.20,000/- in each year under section 271(1)(b) of the IT Act, 1961.

3. In the course of hearing, it was submitted by learned AR of the assessee that as per para 5 of these two impugned orders of learned CIT(A), it is noted by learned CIT(A) that there was delay in filing the appeal before CIT(A) of 67 days. He further pointed out that this was explained by assessee before learned CIT(A) that the assessee was not aware of the penalty proceedings and he came to know about the penalty orders only on 20.02.2019 and thereafter, immediately filed both these appeals before CIT(A) on 04.03.2019 but this delay was not condoned by CIT(A) and he dismissed both these appeals of the assessee without condoning the delay. He submitted that in the interest of justice and in the facts of the present case, this small delay should be condoned and the matter should be restored back to the CIT(A) for a fresh decision on merit. As against, this, learned DR of the Revenue supported the orders of CIT(A).

4. We have considered the rival submissions. In view of the facts discussed above, we feel it proper to condone the delay and restore both these appeals to the file of CIT(A) for a decision on merit. We order accordingly. In view of this decision, no adjudication on merit is called for at the present stage and we make no comment on merit.

5. In the result, both these 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: 20<sup>th</sup> February, 2020.

/NS/

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

By order

Assistant Registrar,  
ITAT, Bangalore.