

आयकर अपीलीय अधिकरण, इन्दौर न्यायपीठ, इन्दौर**IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE BENCH, INDORE****BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI MANISH BORAD, ACCOUNTANT MEMBER****ITA Nos. 129 & 130/Ind/2019  
Assessment Year: 2012-13**

M/s. Bhagya Shree Agro Service Hoshangabad (Appellant)	<u>बनाम/</u> Vs.	DCIT Itarsi  (Revenue )
P.A. No.AALFB1525C		
Appellant by	None	
Revenue by	Shri R.P. Mourya, Sr. DR	
<b>Date of Hearing:</b>	<b>08.06.2020</b>	
<b>Date of Pronouncement:</b>	<b>08.06.2020</b>	

**आदेश / O R D E R****PER KUL BHARAT, J.M:**

These appeals are preferred by the assessee against the orders of the Ld. CIT(Appeals)-1, Bhopal, dated 11.10.2018 pertaining to assessment year 2012-13.

The assessee has raised following grounds of appeal in ITANo.129/Ind/2019:

*“The CIT(A)-1 has passed an ex-parte assessment order without giving sufficient opportunity of being heard to the assessee.”*

The assessee has raised following grounds of appeal in ITANo.130/Ind/2019:

*“The CIT(A)-1 has passed an ex-parte penalty order without giving sufficient opportunity of being heard to the assessee.”*

2. The assessee has also filed an application seeking condonation of delay for filing these present appeals. It is stated that reason for delay in filing the appeals that the partner of the assessee resides in a city where there is no jurisdiction authority. Due to this reason he could not contact his counsel. It is submitted that delay of 64 days is occurred may be condoned. The contention of Ld. DR opposed the submissions and submitted that this is not the reasonable cause to condone the delay even before the Ld. CIT(A) was filed belatedly.

3. We have heard the rival submissions, perused the materials available on records. We find that Ld. CIT(A) has rejected the appeals on the ground that the assessee did not file any application to the condonation of delay. However, considering the facts narrated

in the application, we are of the view that there was a reasonable cause for not filing the present appeals on time, therefore, in the interest of justice delay is condoned. The appeals are taken up for hearing. Ld. counsel for the assessee submitted that the Ld. CIT(A) has passed an *ex-parte* order and the Ld. Assessing officer has made assessment u/s 144 r.s. 147 of the Act. He submitted that in the interest of justice the impugned order may be set aside and the matter be restored back to the file of the ld. CIT(A) for deciding the appeal on merits.

4. Ld. Departmental Representative (DR) opposed these submissions and supported the order of the authorities below.

5. We have heard the rival submissions, perused the materials available on record and gone through the orders of the authorities below. These appeals of the assessee were dismissed for not filing an application seeking condonation of delay. The ld. CIT(A) has not decided the issue on merits. Considering the facts narrated before us, we are of the view that in the interest of principle of natural justice, assessee needs an opportunity of hearing at least before the Ld. CIT(A). We, therefore, set aside the impugned order and restore

the appeal to the file of Ld. CIT(A) to decide it afresh in accordance with law.

6. In result, appeals filed by the assessee are allowed for statistical purposes only.

Order was pronounced in the open court on 08.06.2020.

Sd/-  
(MANISH BORAD)  
ACCOUNTANT MEMBER

Sd/-  
(KUL BHARAT)  
JUDICIAL MEMBER

Indore; दिनांक Dated : 08/06/2020

*Patel/PS*

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT (DR)/Guard file.

By order

**Assistant Registrar, Indore**