

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE
BEFORE SHRI A.K GARODIA, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.138/Bang/2018
Assessment Year : 2013 - 14

Karnataka State Unorganized Workers Social Security Board, Karmika Bhavan, Bannerghatta Road, New Diary Circle, Bengaluru-560 029. PAN - AAALK 1133 A	Vs.	The Income-tax Officer, Ward-7(2)(3), Bengaluru.
ASSESSEE		RESPONDENT

Assessee by	:	Smt. Soumya K, Advocate
Respondent by	:	Shri Manjeet Singh, CIT - DR

Date of Hearing	:	04-06-2020
Date of Pronouncement	:	15-06-2020

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal has been filed by assessee against order dated 21/09/2017 by Ld. CIT(A)-7, Bangalore for assessment year 2013-14.

2. At the outset Ld.AR submitted that, present appeal is filed with a delay of 21 days. An affidavit of chartered accountant firm that handles case of assessee has been filed to explain the delay. It has been submitted that due to the representatives being held with complications in filing GST during relevant period/preparation of audit reports under section 44 A-B and

preparation of filing of returns, the intimations sent by assessee went out of site thereby causing a delay.

3. We have perused the reasons for delay. In our opinion the delay deserves to be condoned due to practical difficulties faced by representatives of assessee and that there was no intention in whatsoever manner for the delay caused.

4. We accordingly condone delay of 21 days in filing present appeal before this Tribunal.

5. Ld. AR further pointed out the fallacy in impugned order. Referring to para 2.2 of Ld. CIT (A)'s order, it was submitted that, assessee was required to file appeal before Ld.CIT(A) electronically w.e.f. 01/03/2016, whereas assessee filed physical copy of Form 35. It is also been recorded by Ld.CIT(A) that no effort's were made by assessee to file appeal electronically subsequent to communication, though the same would have resulted in delay in filing the appeal, necessitating condonation of delay. Ld.CIT(A) therefore treated appeal filed by assessee on 22/04/2016 as invalid. Ld.AR at this juncture submitted that, instead of dismissing the appeal Ld.CIT (A) dealt with the issues on merits which is in total contradiction to the observations of Ld.CIT(A) in para 2.2.

6. At this juncture Ld.Sr.DR, submitted that the issue may be sent back to Ld.CIT(A).

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

8. We note that, during relevant period, assessee was supposed to file appeal electronically before Ld.CIT(A). We also note that Ld.CIT(A) treated physical copy of appeal filed by

assessee as invalid, however decided the issue on merits. We are of the opinion that Ld.CIT(A) cannot blow hot and cold at the same time, by, invalidating physical copy of appeal filed by assessee and also deciding the issue on merits.

9. We therefore set aside this issue back to Ld.CIT(A) for deciding the issue on merits afresh, by affording proper opportunity of being heard to assessee in accordance with law. Assessee is directed to file the appeal electronically. Needless to say that the delay in filing the appeal electronically may be condoned.

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 15th June 2020.

Sd/-

(A.K GARODIA)
ACCOUNTANT MEMBER

Dated: 15/06/2020

/Vms/

Copy to:

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

Sd/-

(BEENA PILLAI)
JUDICIAL MEMBER

By order

Assistant Registrar,
Income Tax Appellate Tribunal.
Bangalore