



IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC-III" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA no.1865/Mum./2019
(Assessment Year : 2011-12)

Smt. Akansha Sanjay Khaturia
21/22, Shilla House
Plot no.93, Sion (East)
Mumbai 400 022
PAN - ADIPK8440R

..... Appellant

v/s

Dy. Commissioner of Income Tax
Circle-26(1), Mumbai

..... Respondent

Assessee by : Shri Raturaj Gurjar
Revenue by : Shri Avaneesh Tiwari

Date of Hearing - 10.06.2020

Date of Order - 17.06.2020

ORDER

The captioned appeal has been filed by the assessee challenging the order dated 12th November 2018, passed by the learned Commissioner of Income Tax (Appeals)-48, Mumbai, pertaining to the assessment year 2011-12.

2. On perusal of record, I find that there is a delay of 37 days in filing the present appeal by the assessee. The assessee has filed an application seeking condonation of delay which is supported by affidavit. The learned Departmental Representative has not raised any

objection with regard to condonation of delay. Further, after considering the submissions made by the assessee I am satisfied that the delay in filing the appeal is due to reasonable cause. Accordingly, I condone the delay and proceed to dispose off the appeal on merit after hearing both the parties and on the basis of material on record.

3. I have heard the learned Counsels appearing for the parties and perused the material on record. The primary grievance of the assessee is against ex-parte disposal of the appeal by the learned Commissioner (Appeals). It is the contention of the learned Counsel for the assessee that learned Commissioner (Appeals) has disposed off the appeal ex-parte without providing a reasonable opportunity of being heard to the assessee. He submitted, had the assessee been given proper opportunity to explain her case with supporting evidence, the additions made by the Assessing Officer would have been deleted. Therefore, he requested for restoring the issues to the file of the learned Commissioner (Appeals) for fresh adjudication. Though, the learned Departmental Representative submitted that the assessee did not avail the opportunities granted by the learned Commissioner (Appeals), however, he fairly submitted, one more opportunity can be given to the assessee to explain her case before learned Commissioner (Appeals).

4. Keeping in view the submissions of the parties and the relevant facts, I am inclined to restore the issues raised in the present appeal to the file of learned Commissioner (Appeals) for enabling the assessee to contest the additions made by the Assessing Officer effectively with supporting evidence. Learned Commissioner (Appeals) must decide the issues afresh after providing due opportunity of being heard to the assessee. I also direct the assessee to appear before learned Commissioner (Appeals) diligently and co-operate in finalising the proceedings. Grounds are allowed for statistical purposes.

5. In the result, appeal is allowed for statistical purposes.

Order pronounced through circulation in notice board under rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963.

**Sd/-
SAKTIJIT DEY
JUDICIAL MEMBER**

MUMBAI, DATED: 17.06.2020

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Assistant Registrar
ITAT, Mumbai