

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES 'A' JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 919/JP/2019
निर्धारण वर्ष / Assessment Year : 2010-11

Sh. Mohammed Ramzan S/o Shri Nishar Ahamed Near Eidgah School Kham Ji Ki Haveli, Fatehpur Shekhawati District Sikar	बनाम Vs.	ITO, Ward-2, Sikar
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AIGPR5409J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Sh. Shrawan Kumar Gupta (Adv.)
राजस्व की ओर से / Revenue by : Sh. K. C. Gupta (JCIT)

सुनवाई की तारीख / Date of Hearing : 30/06/2020
उदघोषणा की तारीख / Date of Pronouncement: 30/06/2020

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

This is an appeal filed by the assessee against the order of Id. CIT(A)-3, Jaipur dated 04.06.2019.

2. At the outset, the Id. AR submitted that there was a delay in filing the appeal before the Id CIT(A) and assessee's prayer for condonation of delay has not been accepted by the Id CIT(A) and the appeal has been dismissed. It was submitted by the Id AR that in this case, the assessment order has been passed on 15.12.2017 u/s 143(3)/147, the same was served on the family member of the assessee on 26.12.2017. Hence the appeal was to be filed on or before 25.01.2018. However at the time of service of order, the assessee was out of home and travelling for some work. However, when the

assessee returned home and thereafter, after few days, when he came to know about this order, he went to the office of his Counsel. Then the Counsel told him that the time limit for filing appeal has expired but given that he has a strong case and reasonable cause for the delay, he should file appeal before the Id. CIT(A) alongwith a prayer for condonation of delay. Then the assessee has filed the appeal on 06.07.2018 with the delay of 5 months and 11 days i.e. 162 days. It was submitted that the Hon'ble Supreme Court in the case of Collector, Land & Acquisition v. Mst. Katiji & Others (1987) 167 ITR 471 (SC) has advocated for a liberal approach while considering a case for condonation of delay. The Id AR submitted that in the interest of justice, the delay so happened may be condoned and the matter may be set-aside to the file of the Id CIT(A) to decide the same on merits.

3. Per contra, the Id DR submitted that the Id CIT(A) has decided not to condone the delay as the reasons given by the assessee are baseless and without any evidence. It was further submitted that there is a delay of 162 days which is a substantial delay and in absence of any reasonable cause shown by the assessee for the delayed filing of appeal, the Id CIT(A) has rightly dismissed the appeal filed by the assessee.

4. Having heard both the parties and purusing the material available on record including the affidavit of the assessee placed on record, we find that there is a reasonable cause for the delay in filing the appeal due to non-availability of the assessee at his residence and time taken in consulting his Counsel. Though there is a delay, the assessee has taken steps in reaching out to his Counsel and has thus not been negligent in safeguarding his rights. No malafide can be imputed against the assessee and the delay in filing the appeal before the Id CIT(A) is hereby condoned and the matter is set aside to the file of the Id. CIT(A) to examine the matter on merits after providing

reasonable opportunity to the assessee. The assessee is also directed to appear before the Id. CIT(A) and file the necessary information and documentation in support of his contentions, as so advised and ensure in timely completion of the proceedings.

In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 30/06/2020.

Sd/-
(विजय पाल राव)
(Vijay Pal Rao)
न्यायिक सदस्य / Judicial Member

Sd/-
(विक्रम सिंह यादव)
(Vikram Singh Yadav)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 30/06/2020

*Ganesh Kr.

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Sh. Mohammed Ramzan, Sikar
2. प्रत्यर्थी / The Respondent- ITO, Ward-2, Sikar
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 919/JP/2019}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar