

IN THE INCOME TAX APPELLATE TRIBUNAL
“H” Bench, Mumbai
Before Shri G. Manjunatha, Accountant Member
and Shri Ravish Sood, Judicial Member
ITA No.456/Mum/2019
(Assessment Year: 2012-13)

Hirji Avchar Nor
Gala A.K. Vaidya Marg,
Dindoshi, Malad (East),
Mumbai – 400097

Income Tax Officer -30(1)(4)
C-13th Floor, Room No. 510,
Pratyaksha Kar Bhavan, BKC,
Vs. Bandra (E)
Mumbai.

PAN – AGJPP4735A

(Appellant)

(Respondent)

Appellant by: None
Respondent by: Shri R. Bhoopati, D.R
Date of Hearing: 02.03.2020
Date of Pronouncement: 04.03.2020

ORDER

PER RAVISH SOOD, JM

The present appeal filed by the assessee is directed against the order passed by the CIT(A)-41, Mumbai, dated 11.09.2018, which in turn arises from the assessment order passed by the A.O under Sec. 143(3) of the Income Tax Act, 1961 (for short 'Act'), dated 30.03.2015 for A.Y. 2012-13. The assessee has assailed the impugned order on the following grounds of appeal before us:

- “1. The learned CIT (A) erred on facts and in law in taking up the appeal when assessee was not able to furnish any written or oral submission which against natural law and justice. He ought to have given another opportunity to the assessee to make his submission.
2. The learned CIT (A) erred on facts and in law in upholding the decision of the AO for to add the Rs 1406615/- by just agreeing to the action of the Income Tax officer without any proper reasons and/or without having additional cogent evidence on records he should have passed speaking order.
3. The appellant craves leave to add, alter, delete or substitute all or any of the above grounds of appeal.

2. Briefly stated, the assessee who is engaged in the business of retail trading had filed her return of income for A.Y. 2012-13 on 25.09.2012, declaring a total income of Rs.8,99,550/-. Return of income filed by the assessee was processed as such under Sec. 143(1) of the Act. Subsequently, the case of the assessee was selected for scrutiny assessment under Sec. 143(2) of the Act. During the course of the assessment proceedings, the A.O made the following additions in the hands of the assessee:

Sr. No.	Particulars	Amount
1.	Unexplained unsecured loan added under Sec .68 of the Act.	Rs.16,49,000/-
2.	Unexplained credit in SB account No. 7278 (jointly held by the assessee with his wife) in Vaishya Sahkari Bank Ltd. added under Sec. 69A.	Rs.17,32,000/-
3.	Unexplained cash deposit in SB Account No. 7278 (jointly held by the assessee with his wife) in Vaishya Sahkari Bank Ltd. added under Sec. 69A.	Rs.9,00,000/-

The A.O after making the aforesaid additions assessed the income of the assessee at Rs.51,82,550/-.

3. Aggrieved, the assessee assailed the assessment order before the CIT(A). In the course of the appellate proceedings the assessee despite sufficient opportunity failed to appear before the CIT(A). Accordingly, the CIT(A) being left with no other alternative after deliberating on the merits of the case, dismissed the appeal.

4. The assessee being aggrieved with the order of the CIT(A) has carried the matter in appeal before us. We find that the assessee despite having been put to notice about the hearing of the appeal, had however, chosen not to put up an appearance before us. Accordingly, being left with no other option, we proceed with as per Rule 24 of the Appellate Tribunal Rules, 1963, and dispose off the appeal after hearing the respondent revenue and perusing the orders of the lower authorities.

5. We find that the present appeal involves a delay of 82 days. On a perusal of the records, we find that the assessee has filed an application seeking condonation of the delay involved in filing of the appeal. It is the claim of the assessee that the delay in filing of the present appeal had occasioned, for the reason, that she was not having good terms with her counsel who was engaged by her to appear before the CIT(A). It is stated by her that as she

had to avail the services of her relative for engaging another counsel for filing of an appeal before the Tribunal, therefore, delay was involved in filing of the present appeal. We find that not only the assessee had sought the condonation of the delay in filing of the present appeal on the basis of unsubstantiated reasons, but in fact, the application filed by her stating the reasons leading to the delay in filing of the appeal is also not supported by an 'affidavit', which would have inspired confidence as regards the veracity of the facts therein stated. Also, the fact that the assessee had not put up an appearance in the course of the proceedings before the CIT(A), further poorly reflects upon her conduct. Apart from that, the assessee even in the course of the hearing of the present appeal had adopted a lackadaisical approach, and despite having been put to notice as regards the fixation of the hearing of the same, had failed to put up an appearance. Accordingly, we are of the considered view that in the absence of any justifiable reason leading to the aforesaid delay in filing of the present appeal, and also the conduct of the assessee, the delay in filing of the same does not merit to be condoned. We thus reject the application filed by the assessee seeking condonation of the delay in filing of the present appeal.

6. As the appeal filed by the assessee is beyond the stipulated time period contemplated in sub-section (3) of Sec. 253 of the Act, therefore, the same is dismissed as not maintainable.

7. Resultantly, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 04.03.2020

Sd/-

(G. Manjunatha)

ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक 04.03.2020

P.S Rohit

Sd/-

(Ravish Sood)

JUDICIAL MEMBER

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai