

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH: BANGALORE**

**BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT AND  
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.1711/Bang/2019
AssessmentYear:2015-16

C Zamruth Pasha Khuresh, Legal heirs of Fathimunnisa (deceased) No.27, Cooks Road 'B' A.M. Road Cross Shivajinagar Bangalore-560 051  <b>PAN NO :AAEPF0176E</b>	<b>Vs.</b>	ITO, Ward-1(2)(2) Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Shri G. Satyanarayana, A.R.
<b>Respondent by</b>	:	Smt. R. Premi, D.R.

Date of Hearing	:	29.09.2020
Date of Pronouncement	:	01.10.2020

**ORDER**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER:**

The assessee has filed this appeal challenging the order dated 28.1.2019 passed by Ld. CIT(A)-1 Bengaluru and it relates to assessment year 2015-16.

2. The appeal is barred by limitation by 124 days. The assessee has filed a petition before the bench requesting it to condone the delay. The Ld A.R submitted that this appeal is being now pursued by the legal heir of the assessee, since the assessee has expired on 30-10-2018. He submitted that, since the assessee has expired,

Page 2 of 4

she could not appear before Commissioner, which led to passing of ex-parte order by Ld. CIT(A). He further submitted that the legal heir took some time to understand the complexities of the matter and to file appeal before Tribunal. Accordingly, he submitted that the delay in filing the appeal before the Tribunal is on account of reasonable cause and accordingly he has prayed that the delay in filing appeal before Tribunal may be condoned.

3. We heard Ld. D.R. on this preliminary issue and perused the record. Having regard to the submissions made in the affidavit and by Ld A.R, we condone the delay and admit the appeal for hearing.

4. We heard the parties and perused the record. We notice that the Ld CIT(A) has dismissed the appeal refusing to condone the delay of 45 days in filing appeal before him. He further confirmed the disallowance of deduction claimed u/s 54 of the Act on the reasoning that no material was placed either before him or before the AO. However, as per the affidavit filed by the legal heir, the assessee has expired on 30.10.2018, whereas the Ld. CIT(A) has passed the order on 28.1.2019. It is noticed that the Ld. CIT(A) has fixed the hearing on 17.1.2019 and 28.1.2019 i.e. after the expiry of the assessee. We notice that the assessee has filed a petition before Ld CIT(A) requesting him to condone the delay of 45 days in filing appeal before him, wherein it is stated that the appeal could not be filed in time due to professional exigency. However, the Ld. CIT(A) has refused to condone the delay and admit the appeal for hearing.

5. The Ld. A.R. submitted that the assessee is an old lady and she could not properly represent before the tax authorities due to lack of proper assistance. He further submitted that grave injustice

Page 3 of 4

will be caused to the assessee, if the appeal is not disposed on merits.

6. Having regard to the peculiar facts and circumstances of the case, we are of the view that the delay of 45 days in filing appeal before Ld. CIT(A) deserves to be condoned. Accordingly, we condone the delay in filing appeal before Ld. CIT(A).

7. Since the Ld. CIT(A) has not adjudicated the appeal on merits, we are of the view that, in the interest of natural justice, all the issues require to be restored his file for adjudicating them on merits. Accordingly, we set aside the order passed by Ld. CIT(A) and restore all the issues to his file.

8. We also direct the assessee to extend full cooperation to LD CIT(A) for expeditious disposal of the appeal.

9. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 1<sup>st</sup> Oct, 2020.

**Sd/-**  
**(N.V. Vasudevan)**  
**Vice President**

**Sd/-**  
**(B.R. Baskaran)**  
**Accountant Member**

Bangalore,  
Dated 1<sup>st</sup> Oct, 2020.  
VG/SPS

Page 4 of 4

**Copy to:**

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

By order

Asst. Registrar, ITAT, Bangalore.