

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

**BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT AND  
SHRI A. K. GARODIA, ACCOUNTANT MEMBER**

<b>ITA No. 1847/Bang/2019</b>
<b>Assessment year : 2016 – 17</b>

Ms Honnappa Kavitha, No. 12, 80 Feet Road, Padmanabhnagar, Bangalore – 560070 <b>PAN : AFSPK9284M</b>	Vs .	ACIT Circle – 7 (2) (1), Bangalore
<b>APPELLANT</b>		<b>RESPONDENT</b>
Assessee by	:	Smt. Suman Lunkar, C. A.
Revenue by	:	Smt. R. Premi, JCIT DR
Date of hearing	:	22.10.2020
Date of Pronouncement	:	22.10.2020

**ORDER**

***PER ARUN KUMAR GARODIA, A. M.:***

This appeal is filed by the assessee and the same is directed against an order of learned CIT (A) – 7 Bengaluru dated 05.07.2019.

2. In this appeal, although as many as 5 grounds are raised by the assessee but the main effective grievance is this that the learned CIT (A) was not justified in refusing to condone the delay of 440 days in filing appeal before him and consequently dismissing the appeal as unadmitted without deciding the issue on merit.

3. In course of hearing, learned AR of the assessee submitted that regarding reasons of delay of 440 days in filing appeal before CIT (A), the explanation of the assessee are noted by CIT (A) in para 4.1 of his order, as per which, it is explained by the assessee that the assessee was waiting for the rectification pending before the AO against the order u/s 143 (1). She submitted that from this explanation, it comes out that delay was for this reason that the assessee was pursuing an alternative remedy available under the law because there was no dispute about quantum of income because returned income was accepted and the dispute was only regarding non granting of credit for TDS of Rs. 13,00,710/- by DCIT (CPC) which can be rectified u/s 154. She submitted that the learned CIT (A) has reproduced the assessee's explanation in this regard from Form 35 in Para 4 of his order and as per the same, the assessee had filed rectification petition u/s 154 on 23.01.2017 after receiving the demand notice on 09.01.2017. She further pointed out that this rectification petition u/s 154 filed on 23.01.2017 was disposed of by CPC on 30.01.2017 but CPC has in fact CPC transferred the rectification petition u/s 154 to the AO on this wrong basis that rectification request is in respect of deduction under chapter VIA. She submitted that after receipt of this order from CPC also, the assessee was pursuing the matter before the AO and because of these reasons, delay was caused. She placed reliance on the tribunal order rendered in the case of M/s Vakratunda Holdings Pvt. Ltd. Vs. DCIT in ITA No. 1084/bang/2017 dated 31.10.2017 and submitted that the copy of this tribunal order is available on pages 48 to 50 of the paper book and pointed out that in para 7, the tribunal has held that if it is found that the assessee is bonafidely

pursuing alternative remedy available under the law, the delay for that reason should be condoned. She submitted that in view of this tribunal order, the delay should be condoned in the present case also. Learned DR of the revenue supported the order of CIT (A).

4. We have considered the rival submissions. We find that in the facts of the present case as noted above, we are satisfied that the assessee was bonafidely pursuing alternative remedy available under the law and therefore, by respectfully following this tribunal order, we condone the delay in filing of appeal before CIT (A) and restore the matter back to the file of CIT (A) for a decision on merit.

5. In the result, the appeal of the assessee is allowed for statistical purposes in the terms indicated as above.

*Pronounced in the open court on the date mentioned on the caption page.*

**Sd/-**

**(N. V. VASUDEVAN)**

**Vice President**

Bangalore,

Dated: 22<sup>nd</sup> October, 2020.

/NS/\*AKG

**Sd/-**

**(A.K. GARODIA)**

**Accountant Member**

Copy to:

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

By order

Assistant Registrar,  
ITAT, Bangalore.