

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

**BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA Nos. 265 and 266/Bang/2018
Assessment years : 2011-12 and 2012-13

Shri C. Ashwathanarayana, 639, Sule Bele Main Road, Devanahalli, Bengaluru – 562 110. PAN : ADZPX 9837 F	Vs.	Income Tax Officer, Ward - 2(2)(1), Bengaluru.
APPELLANT		RESPONDENT
Assessee by	:	Shri. S. V. Ravishankar, Advocate
Revenue by	:	Shri. Manjeet Singh, Addl. CIT (DR)(ITAT), Bengaluru
Date of hearing	:	06.01.2020
Date of Pronouncement	:	07.02.2020

ORDER

Per A.K. Garodia, Accountant Member

Both these appeals are filed by the assessee which are directed against a combined order of learned CIT(A)-6, Bengaluru dated 28.09.2017 for Assessment Years 2011-12 and 2012-13. Both these appeals were heard together and are being disposed of by way of this common order for the sake of convenience.

2. These appeals of the assessee were filed before the Tribunal after a delay of 16 days and the assessee has moved an application for condonation of this delay along with an affidavit. In the affidavit, it is stated by the assessee that the assessee was suffering from High BP apart from age related illness considering the fact that he also suffered loss of his son and therefore, was advised rest and to avoid stress. It is also stated in the affidavit that the order of CIT(A) was received by his son-in-law who has been staying with him to ensure that the assessee follows the advice of the doctor and various notices and orders were not shown to him or to his consultant and after improvement of his health only, he came to know about this order and took steps in filing

of appeal before the Tribunal and therefore ,in the interest of justice, this small delay should be condoned. Although learned DR of Revenue opposed the condonation of delay but considering the facts as discussed above, we condone the delay and admit these appeals.

3. Regarding merit of these two appeals, it was submitted by learned AR of the assessee that the combined order of CIT(A) is ex-parte qua the assessee. He submitted that although several dates were fixed by learned CIT(A) for hearing as noted by him in his order but the assessee could not appear before CIT(A) for the same reasons due to which there was delay in filing of appeal before Tribunal. He submitted that in the interest of justice, the matter may be restored back to the file of learned CIT(A) for a fresh decision after providing reasonable opportunity of being heard to the assessee. Learned DR of the submitted that since several dates were fixed by learned CIT(A), no further opportunity of hearing should be provided to the assessee.

4. We have considered the rival submissions. In view of the fact that assessee was sick and was recovering from shock of loss of his son, we feel it proper to restore back the matter to the file of learned CIT(A) for fresh decision after providing reasonable opportunity of being heard to both sides.

5. In view of this decision, no adjudication on merit is called for at the present stage and we make no comment on merit.

6. In the result, both appeals of the assessee are allowed for statistical purposes.

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

Sd/-
(PAVAN KUMAR GADALE)
Judicial Member

Sd/-
(A.K. GARODIA)
Accountant Member

Bangalore,

Dated: 07th February, 2020.

/NS/*

Copy to:

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

By order

Assistant Registrar,
ITAT, Bangalore.