

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.499/Del./2020
Assessment Year 2015-16

Sarvapriya Club A Unit of Sarvapriya Co-op House Building Society Limited, 8/5, Sarva Priya Vihar, South West, New Delhi. PAN No. AABAS9371G	vs.	Income Tax Officer, Ward 32(3), New Delhi.
(Appellant)		(Respondent)

For Assessee :	Shri R.S. Singhvi, CA Shri Satyajit Goel, CA
For Revenue :	Shri Ved Prakash Mishra, Sr. DR

Date of Hearing :	23.11.2020
Date of Pronouncement :	23.11.2020

ORDER

This appeal by assessee has been directed against the order of Ld. CIT(Appeals)-32, New Delhi dated 25.11.2019 for AY 2015-16.

2. I have heard Ld. Representatives of both the parties and perused the orders of authorities below.

3. The Ld. CIT(A) noted in the impugned order that appeal is time barred by 229 days. Ld. CIT(A) has considered the petition for condonation of delay in which it was mentioned that due to wrong advice of Late Chartered Accountant Shri S.K. Gupta, appeal could not be filed. Ld. CIT(A), however, did not consider it to be reasonable cause for failure to file the appeal within the period of limitation. Therefore, appeal of assessee was dismissed being time barred.

4. Ld. Counsel for assessee has referred to affidavit of the President of the assessee society dated 16.10.2020 in which it is stated that the assessee society has engaged Late Shri S.K. Gupta, Chartered Accountant for handling the tax matter but due to his poor health he could not deal with the matter of the assessee properly and ultimately he has expired on 23.05.2018. Therefore, this appeal could not be filed. Affidavit is supported by death certificate of the Chartered Accountant. Ld. Counsel for assessee also submitted that issue on merit may be covered by various decisions in favour

of the assessee. He has, therefore, submitted that nobody will get benefit in not filing the appeal within the period of limitation.

5. Considering the totality of the facts and circumstances and now recent affidavit filed of President of the assessee society which is not examined by the Ld. CIT(A) and other contentions now raised by Ld. Counsel for assessee, I am of the view that the matter with regard to condonation of delay requires reconsideration at the level of the Ld. CIT(A). In view of the above, I set aside the impugned order and restore the appeal of assessee to the file of Ld. CIT(A) with direction to re-decide the issue of condonation of delay in filing the appeal before him sympathetically considering the explanation of the assessee now raised before the Tribunal. Ld. CIT(A) shall give reasonable, sufficient opportunity of being heard to the assessee.

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

Order pronounced in the open Court.

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Dated 23.11.2020

*Kavita Arora

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches : Delhi.