

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DIVISION BENCH, CHANDIGARH**

**BEFORE MRS. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &  
SHRI R.L NEGI, JUDICIAL MEMBER**

**ITA Nos. 207 & 208/Chd/2020)**

निर्धारणवर्ष / Assessment Year : 2010-11

Shri Kulwinder Singh, Vill. Khairabad, Ropar	बनाम	The Income Tax officer, Ward-2(2), Ropar
स्थायीलेखासं./PAN NO: CCTPS4938N		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

**Hearing through video Conferencing**

निर्धारितकीओरसे/Assessee by : Shri Parikshit Aggarwal, CA  
राजस्वकीओरसे/ Revenue by : Smt. Meenakshi Vohra, Addl. CIT  
Shri Ashok Khanna, Addl CIT

सुनवाईकीतारीख/Date of Hearing : 28.01.2021  
उदघोषणाकीतारीख/Date of Pronouncement : 28 .01.2021

**आदेश/Order**

**Per Bench:**

The assessee has filed the captioned appeals against the two orders dated 18.10.2019 pertaining to the assessment year 2010-11 passed by the Commissioner of Income Tax (Appeals)-1, Chandigarh, [(for short 'the CIT(A)']. Vide the said orders, the Ld. CIT(A) has dismissed the appeals filed by the assessee against the assessment order passed u/s 143(3) read with section 147 of the Income Tax Act, 1961 (in short 'the Act') and the appeal filed against the penalty order passed u/s 271 (1)(c) of the Act. Since both the appeal pertain to the same assessee for the

same assessment year, these were clubbed, heard together and are being disposed of by this common order for the sake of convenience.

2. At the outset, the Ld. Counsel for the assessee submitted before us that the assessee wants to settle his disputes under the provisions of Vivad Se Viswas Scheme 2020, however, since there is delay of 70 days each in filing these appeals the assessee has filed separate applications for condonation of delay along with the affidavits. The Ld. Counsel further submitted that as per the CBDT Circular No. 21/2020 dated 4.12.2020, in such cases the assessee is eligible to opt for the scheme if the appellate authority condones the delay in filing of the appeals.

3. The Id. Counsel further submitted that the orders of the Id. CIT(A) were served electronically on the applicant on 20.10.2019 and the assessee being an agriculturist, was not at all conversant with technology. Further, the assessee came to know about this fact on 21.1.2020 and thereafter the assessee without any further unnecessary delay, filed the present appeals on 27.2.2020. The Ld. Counsel further submitted that the delay was not caused due to negligence act or inaction on the part of the assessee but was caused due to a *bona fide* reason. In view of the aforesaid facts and circumstances of the case, the Id. Counsel submitted that the applications of the assessee may be allowed and the delay may be condoned in both the cases and the appeals of the assessee may be dismissed as withdrawn so that the

assessee may avail the benefit of provisions under Vivad Se Viswas Act, 2020.

4. On the other hand, the Ld. DR opposed the delay on the ground that there was no sufficient cause which prevented the assessee to file the present appeals within limitation period.

5. We have heard the rival submissions and perused the material available on record. As pointed out by the Ld. Counsel the assessee the assessee being an agriculturist is not conversant with the technology and he was not aware of the fact that the orders of the Ld. CIT(A) had been uploaded on the portal of the department on 20.10.2019. However, when he came to know about the same the assessee immediately filed the present appeals.

6. The Hon'ble Supreme Court in the case of *Collector Land Acquisition vs Mst. Katiji & Ors (1987) AIR 1353*, has laid down the principles to be followed while dealing with the issue of condonation of delay which are as follows: -

- “1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.
2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.
3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay,

*every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.*

4. *When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*
5. *There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.*
6. *It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.”*

7. In the present case, we do not find any inaction or negligence on the part of the assessee. In our considered view, the assessee had a sufficient cause which prevented him from filing the present appeals within the limitation period. No prejudice is going to be caused to the revenue. Hence, we are of the view that these are the fit cases, where the delay can be condoned. In the light of the facts and circumstances of the cases and the principles of law laid down by the Hon'ble Supreme Court in the case of *Collector Land Acquisition vs Mst. Katiji & Ors* (supra), we condone the delay in filing the present appeals and dismiss the appeals of the assessee as 'withdrawn' with a liberty to get these appeals restored by filing M.As. in case the issues are not settled under Vivad Se Viswas Scheme.

8. In the result, appeals filed by the assessee are dismissed as withdrawn.

Order pronounced on 28.01.2021.

Sd/-  
(ANNAPURNA GUPTA)  
Accountant Member

Sd/-  
(R.L.NEGI)  
Judicial Member

**Dated :**  
"आर.के."

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्डफाईल/ Guard File

आदेशानुसार/ By order,  
सहायकपंजीकार/ Assistant Registrar