

आयकर अपीलिय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "B" VC JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 260/JP/2019
निर्धारण वर्ष / Assessment Year : 2011-12.

Shri Umesh Singh, Dholi Mandi, C/o Rohit Auto Garage, Renwal Road, Chomu, Jaipur.	बनाम Vs.	Income Tax Officer, Ward 7(3), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No. AMEPS 3364 F		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri S.L. Poddar (Advocate)
राजस्व की ओर से / Revenue by : Smt. Monisha Choudhary (Addl.CIT)

सुनवाई की तारीख / Date of Hearing : 02/02/2021
उदघोषणा की तारीख / Date of Pronouncement: 01/03/2021

आदेश / ORDER

PER: SANDEEP GOSAIN, J.M.

This appeal by the assessee is directed against the order dated 04.02.2019 of Id. CIT (A)-3, Jaipur for the assessment year 2011-12. The assessee has raised the following grounds of appeal :-

1. Under the facts and circumstances of the case the learned CIT (A) has erred in not condoning the delay of 399 days in filing the appeal which was due to reasonable and bonafide cause.
2. In the facts and circumstances of the case the learned CIT (A) has erred in confirming the addition of Rs. 2,51,962/- on account of non deduction of TDS for interest payment made by the learned AO.

3. In the facts and circumstances of the case the learned CIT (A) has erred in confirming the addition of Rs. 2,16,000/- on account of non deduction of TDS for rent payment made by the learned AO.
4. The assessee craves your indulgence to add, amend or alter all or any grounds of appeal before or at the time of hearing.

2. There is a delay of 399 days in filing the appeal before the Id. CIT (A). The assessee has filed an application for condonation of delay along with affidavit which has been rejected by the Id. CIT (A) by observing in para 3 of his order as under :-

" 3. I carefully considered the condonation delay application. I find that the appellant file appellate by 399 days without any genuine cause. The appellant failed to file any supporting evidence regarding his condonation delay. Therefore, I rejected the condonation delay petition and the appeal is dismissed at admission stage."

3. We have heard the Id. A/R as well as the Id. D/R on the condonation of delay in filing the appeal. The Id. A/R of the assessee has submitted that the delay of 399 days in filing the appeal is due to inadvertent and bonafide delay on the part of the assessee who has received the assessment order on 14.03.2016 but the same was misplaced and later on forgot to file appeal against the assessment order dated 22.06.2015. The assessee filed the appeal on 15.04.2017 when recovery proceedings were taken up. This is an unintentional human error which has

happened on the part of the assessee. The Id. A/R has thus contended that the assessee has corroborated this fact in the affidavit and, therefore, the delay in filing the appeal is neither intentional nor willful but due to the circumstances as explained in the condonation application as well as in the affidavit. Thus the Id. A/R has pleaded that the delay of 399 days in filing the appeal may be condoned.

4. On the other hand the Id. D/R has vehemently opposed to the condonation of delay and submitted that the appeal of the assessee is not maintainable and the same is liable to be dismissed being barred by limitation.

5. We have considered the rival submissions and carefully perused the cause of delay explained by the assessee in the application for condonation of delay as well as in the affidavit filed by the the assessee. The assessee has made a solemn statement in the affidavit that he received the impugned assessment order on 14.03.2016 but it was kept by him in the office and misplaced. As the assessment order is inadvertently misplaced and forgot about the order, he could not take steps for filing the appeal. Thus the assessee has stated that it is a human error on his part and due to slip of mind he could not file the appeal before the Id. CIT (A) in time. By considering the reasons as explained by the assessee in the application for condonation of delay as well as in the affidavit, we are satisfied that the assessee was having a reasonable cause for delay of 399 days in filing the appeal before the Id. CIT (A). Accordingly, in the facts and circumstances of the case and in the interest of justice, we condone the delay of 399 days in filing the appeal. Since the matter was not heard on merits and only the issue of condonation of delay was taken up for hearing as per requests of the parties, therefore, the appeal of the

assessee is remitted back to the Id. CIT (A) for deciding afresh after affording an opportunity of hearing to the assessee.

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

Order pronounced in the open court on 01/03/2021.

Sd/-
(विक्रम सिंह यादव)
(Vikram Singh Yadav)
लेखा सदस्य / Accountant Member

Sd/-
(संदीप गोसाईं)
(Sandeep Gosain)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 01/03/2021.

Das/

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Shri Umesh Singh, Chomu, Jaipur.
2. प्रत्यर्थी / The Respondent- The ITO Ward 7(3), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 260/JP/2019}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar