

**आयकर अपीलीय अधिकरण “एक-सदस्य मामला” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“SMC” BENCH, MUMBAI**

**माननीय श्री शक्तिजीत दे, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI SAKTIJIT DEY, JM AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**(Hearing Through Video Conferencing Mode)**

आयकरअपीलसं./ I.T.A. No.5542/Mum/2019  
(निर्धारणवर्ष / Assessment Year: 2010-2011)

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आयकरअपीलसं./ I.T.A. No.5543/Mum/2019  
(निर्धारणवर्ष / Assessment Year: 2011-2012)

<b>Shri Maheshkumar Mavji Patel</b> 401, Hari Om Krupa Building Fourth Floor, Behind Macdonald Opp. Ramdev Xerox Street Nallasopra (W), Palghar Mumbai 400 004.	<b>बनाम/</b> Vs.	<b>ITO-Ward -4(2)</b> Ashar IT Park, 6 <sup>th</sup> Floor Wagle Estate, Thane Thane.
<b>स्थायीलेखासं./जीआइआरसं./ PAN/GIR No. AKKPP-7534-Q</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थीकीओरसे/ <b>Appellant by</b>	:	Ms. Ankita Vashistha-Ld. AR
प्रत्यर्थीकीओरसे/ <b>Respondent by</b>	:	Shri Smita Verma-Ld. DR

सुनवाईकीतारीख/ <b>Date of Hearing</b>	:	23/03/2021
घोषणाकीतारीख / <b>Date of Pronouncement</b>	:	05/04/2021

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member):-**

1. The registry has noted a considerable delay of 276 days in filing of the captioned appeals. The condonation of the same has been sought by the assessee vide separate condonation petitions dated 26/08/2019 along with affidavit. The delay has been attributed

to lapse on the part of tax consultant and also in view of the fact that the assessee's family members were facing adverse medical conditions. In support, the copies of medical reports etc. have also been placed on record. The Ld. DR pleaded for dismissal of the appeals by drawing attention to the fact that the assessment has been framed on best judgment basis u/s 144 and the assessee failed to appear before learned first appellate authority also.

2. Upon careful consideration of material on record, we concur with Ld. DR's submissions that the assessee remained negligent throughout the assessment proceedings as well as appellate proceedings. However, keeping in view the principle of natural justice, we are inclined to grant another opportunity to the assessee to substantiate his case before lower authorities. Therefore, on the facts of the case, we condone the delay and restore the matter for both the years to the file of Ld. AO for re-adjudication with a direction to the assessee to attend the assessment proceedings diligently failing which Ld. AO shall be at liberty to proceed with the matter on the basis of material on record.

3. Both the appeals stands allowed for statistical purposes.

*Order pronounced on 5<sup>th</sup> April, 2021.*

**Sd/-**  
**(Saktijit Dey)**  
न्यायिक सदस्य / **Judicial Member**

**Sd/-**  
**(Manoj Kumar Aggarwal)**  
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 05/04/2021  
*Sr.PS, Jaisy Varghese*

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**