

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

(Through Virtual Court)

BEFORE SHRI R.S.SYAL, VP AND  
SHRI PARTHA SARATHI CHAUDHURY, JM

आयकर अपील सं. / ITA Nos. 890, 891 & 892 /PUN/2018  
निर्धारण वर्ष / Assessment Years : 2003-04, 2004-05 & 2005-06

Nilofer Mehboob Mujawar,  
Flat No.4, Green Land Apartment,  
South Sadar Bazar,  
Solapur-413 003  
PAN : AOIPM9211F

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,  
Ward-1(2), Solapur.

.....प्रत्यर्थी / Respondent

Assessee by : None

Revenue by : Shri Sudhendu Das

सुनवाई की तारीख / Date of Hearing : 29.06.2021

घोषणा की तारीख / Date of Pronouncement : 29.06.2021

**आदेश / ORDER**

**PER PARTHA SARATHI CHAUDHURY, JM:**

These three appeals preferred by the common assessee emanates from the different orders of the Ld. CIT(Appeals)-9, Pune dated 31.01.2018 for the assessment years 2003-04, 2004-05 and 2005-06 as per the grounds of appeal on record.

2. At the very outset, we find that the appeal is time barred by 4 days. However, this delay has been explained by the assessee at the time of filing of appeal through condonation petition stating that this delay was occurred due to ill health. The Ld. DR did not raise objection if the delay is condoned and the case is heard on merits. That on perusal of the condonation petition regarding the delay in filing of appeal on record, we find that the delay cannot be attributed to the deliberate action of the assessee or any mala-fide intention on the part of the assessee and the entire delay is explained which is not disputed by the Department. In such scenario, we condone this delay of 4 days and after recording the submissions of the Ld. DR, the cases were heard on merits.

3. At the time of hearing, neither the assessee nor his authorized representative was present. We observe that the orders passed by the Ld. CIT(Appeals) are an ex-parte orders and rights and liabilities of the assessee were not adjudicated upon. The Ld. CIT(Appeals) dismissed the appeals of the assessee on the ground of non-prosecution.

4. From Para 4 & 5 of the Ld. CIT(Appeals)'s orders, it is evident that neither the assessee nor its authorized representative attended and filed the details evidences in support of appeals on merits. Therefore, the Ld. DR submitted that the matter may be restored to the file of the Ld. CIT(Appeals) for fresh adjudication.

5. We have perused the case records. We find that the Ld. CIT(Appeals) dismissed appeals of the assessee on the ground of non-prosecution. It is, therefore, clear that rights and liabilities of the parties were not adjudicated upon on merits. The spirit of income tax legislation is that of welfare legislation and we are of the considered view that one final opportunity needs

to be given to the assessee to represent his case on merits so that justice can be delivered.

In view of the matter, we set aside the respective orders of Ld. CIT(Appeals) and restore the matter back to their respective files for fresh adjudication after providing sufficient opportunity of hearing to the assessee. At the same time, we direct the assessee to present himself before the Ld. CIT(Appeals) with relevant documentary evidences to represent his case on merits.

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

Order pronounced on 29<sup>th</sup> day of June, 2021.

Sd/-  
**R.S.SYAL**  
**VICE PRESIDENT**

Sd/-  
**PARTHA SARATHI CHAUDHURY**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 29<sup>th</sup> June, 2021.  
SB

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-9, Pune.
4. The Pr. CIT-6, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव / Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	29.06.2021	Sr.PS/PS
2	Draft placed before author	29.06.2021	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		