

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “SMC-1” BENCH: NEW DELHI
(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &
SHRI O.P.KANT, ACCOUNTANT MEMBER**

**ITA No.487/Del/2020
Assessment Year : 2011-12**

Vidya Sagar Dwivedi, FH-1, Santi Nagar, Dwivedi Market, Nandgram, Ashram Road, Ghaziabad Uttar Pradesh-201003. PAN-AKVPD5006C	vs	ITO, Ward-2(5), Ghaziabad.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Sh. R.K.Gupta, Sr.DR	
Date of Hearing	28.06.2021	
Date of Pronouncement	02.07.2021	

ORDER

PER KUL BHARAT, JM :

This appeal filed by the assessee for the assessment year 2011-12 is directed against the order of learned CIT(A), Ghaziabad dated 29.11.2019.

The assessee has raised following grounds of appeal:-

1. *“That on the facts and in the circumstances of the case and in law the Ld.CIT(Appeals) erred in:
 - i. *Dismissing the appeal being non-maintainable without providing due and adequate opportunity of hearing.*
 - ii. *Confirming the addition of Rs.12,98,030/- made by the Assessing Officer.*
 - iii. *Appeal was filed after getting the certified copies of assessment order and notice of demand as originally the same were not received by the assessee.*
 - iv. *There was no admitted tax and even disputed tax was deposited in full. Dismissal of appeal as defective under section 249(4) is against the facts of the case.”**

2. At the time of hearing, none appeared on behalf of the assessee. However, it is seen that the appeal of the assessee was rejected on the ground of delay by Ld.CIT(A). It is also noticed that Ld.CIT(A) has recorded that no application seeking condonation of delay was filed by the assessee. Further, it is also noticed that Ld.CIT(A) has recorded that the assessee had not made payment of taxes as per the provision of Section 249(4) of the Income tax Act, 1961 ("the Act"). However, the assessee has taken a categorical ground No.(iv) stating that there was no admitted tax and even disputed tax was deposited in full.

3. Ld. Sr. DR submits that he has no objection if the appeal is restored to the file of Ld.CIT(A) for considering the appeal afresh and giving opportunity for filing application for condonation of delay.

4. Considering these facts, we set aside the order of Ld.CIT(A) and restore the appeal to the file of Ld. CIT(A) for decision afresh and the assessee would file application seeking condonation of delay. The Ld. CIT(A) may condone the delay after considering the submissions made in application. Thus, grounds raised by the assessee are allowed.

5. In the result, the appeal of the assessee is allowed.

Above decision was pronounced on conclusion of Virtual Hearing in the presence of both the parties on 02nd July, 2021.

Sd/-
(O.P.KANT)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Amit Kumar

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI