

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'G' NEW DELHI**

**BEFORE MS SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SH. PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

I.T.A. No. 132/DEL/2021 (A.Y 2012-13)

(THROUGH VIDEO CONFERENCING)

Kawal Singh (L/H of Late Shree Chand), Gurgaon C/o. RRA Tax India, D-28, South Extension Part-1, New Delhi BENPC7845D (APPELLANT)	Vs	ITO Ward-4(2) Gurgaon (RESPONDENT)
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Appellant by	Sh. Sumit Lal Chandani, Adv
Respondent by	Sh. Prakash Dueby, SR. DR

Date of Hearing	15.09.2021
Date of Pronouncement	27.09.2021

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 09/09/2019 passed by CIT(A)-1, Gurgaon for assessment year 2012-13.

2. The grounds of appeal are as under:

1. *“That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of AO in reopening the assessment u/s 147 and that too when statutory conditions u/s 147 to 151 were not complied with.*
2. *That in any case and in any view of the matter, action of Ld. CIT(A) in*

confirming the action of Ld. AO in reopening the assessment u/s 147, is bad in law and against the facts and circumstances of the case.

3. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of AO in making an addition of Rs.22,80,19,359/- on account of alleged long term capital gain, more so when the land sold is in the nature of agricultural and not covered under the definition of capital asset and the impugned addition has been made by recording incorrect facts and findings and without observing the principles of natural justice.*
4. *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in making an addition of Rs.22,80,19,359/- on account of alleged long term capital gain, is bad in law and against the facts and circumstances of the case and the same is not sustainable on various legal and factual grounds.*
5. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in not allowing the benefit the exemption u/s 54B as claimed by the assessee and that too by recording incorrect facts and findings and without observing the principles of natural justice.*
6. *That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in not allowing the benefit the exemption u/s 54B, is bad in law and against the facts and circumstances of the case.*
7. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in*

charging interest u/s 234A, 234B and 234C of Income Tax Act, 1961.

3. During the hearing, the Ld. AR submitted that the appeal is filed after statutory limit. Thus, there is a delay of 437 days in filing the appeal. The Ld. AR further submitted that due to the reasons of delay in filing appeal, declaration filed under the direct tax “Vivad se Vishwas Scheme” Act, 2020 of the aforesaid appeal was rejected and therefore, the assessee sought early hearing for deciding the application for condonation of delay in filing the appeal. The Ld. AR prayed that appeal may adjourn and the delay in filing of the appeal may be condoned. The reasons set out in the application for condonation of delay is that the order of the CIT(A) was communicated to the assessee on 15/10/2019 and the time limit to file appeal against the same expired on 13/12/2019. The assessee filed appeal on 23/2/2021 which is delayed 437 days. The Ld. AR further submitted that w.e.f from March, 2020 there was a guideline of the Hon’ble Supreme Court in respect of Lockdown related to global pandemic (Vovid-19). Thus, the delay was beyond the control of assessee after March, 2020. The assessee i.e. Late Shri Chan was an agriculturist and was not well versed that the law especially Income Tax Act. The legal heir of the assessee received order dated 9/9/2019 of the CIT(A) on 15/12/2019 and since there were two parallel cases pertaining to Late Shri Chan which were going on simultaneously the legal heir of the assessee has unintentionally means due date of filing the delay and was unaware of its legal complications. The legal heir of the assessee has opted for direct tax “Vivad se Vishwash Scheme” Act, 2020 but was rejected only on the ground that the delay in filing the appeal before the Tribunal was not condoned.

4. Being aggrieved by the penalty order, the assessee filed appeal before the CIT(A). The CIT (A) dismissed the appeal of the assessee.

5. The Ld. DR submitted that the assessee received the order dated 9/9/2019 passed by the CIT(A) on 15/12/2019 and not set out any cogent reasons for delay. Therefore, delay in filing of appeal should not be condoned.

6. We have heard both the parties and perused the material available on record. The delay of 437 days has been properly explained by the assessee during the course of hearing as there was a global pandemic after March, 2020. The delay is condoned. Since, the assessee has given undertaking that the assessee will file fresh application under "Vivad se Vishwas Scheme", we are hereby dismissing this appeal with the liberty to the assessee that if the same is rejected then the assessee will revive this appeal. Hence, the appeal of the assessee is dismissed.

8. In result, the appeal of the assessee is dismissed.

Order pronounced in the Open Court on this 27th Day of September, 2021

Sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated: 27/09/2021

*R. Naheed **

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT NEW DELHI

