

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT)
"SMC" BENCH, MUMBAI**

BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER

**ITA NOS. 1906, 1907 & 1908/MUM/2020
(A.Ys: 2009-10, 2010-11 & 2011-12)**

Shri Niyaz Mustafa Khan Room No. 13, Radharaman Society Netaji Nagar, Khadi No.3 Kajupada, Kurla Mumbai – 400072 PAN: ALVPK5026C	v.	Income Tax Officer – 26(2)(3) Pratyakshkar Bhavan Bandra Kurla Complex Bandra (E), Mumbai – 400051
(Appellant)		(Respondent)

Assessee by	:	None
Department by	:	Shri Ashok Koli
Date of Hearing	:	04.10.2021
Date of Pronouncement	:	04.10.2021

ORDER

PER C.N. PRASAD (JM)

1. These appeals are filed by the assessee against different orders of the Learned Commissioner of Income Tax (Appeals)–38, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 31.12.2018 for the A.Ys. 2009-10 to 2011-12, in sustaining the action of the Assessing Officer in restricting the disallowance to 12.5% of the non-genuine purchases for the A.Y.2009-10 and A.Y. 2010-11 and 20% for the A.Y. 2011-12 as non-genuine.

2. It is observed from the record that the appeals of the assessee were dismissed by the Ld.CIT(A) as there was substantial delay of 802, 442 and 182 days in filing the appeals for the A.Y. 2009-10, 2010-11 and 2011-12 respectively and the assessee could not explain the substantial delay in filing the appeals before the Ld.CIT(A). The Ld.CIT(A) dismissed all three appeals in limine as time barred as the assessee could not explain the delay. It is observed from the record that the assessee filed appeals before the Tribunal with substantial delay of 606 days. The assessee did not file any petition for condonation of delay along with appeal, though the appeals were filed belatedly before the Tribunal. Since the assessee did not file petition for condonation of delay along with affidavit explaining the substantial delay in filing of these appeals even before the Tribunal, these appeals are time barred and dismissed in limine.

3. In the result, appeals of the assessee are dismissed.

Order pronounced in the virtual court on 04.10.2021.

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER
Mumbai / Dated 04.10.2021
Giridhar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum