

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "D", MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No. 868/MUM/2020
Assessment Year: 2013-14**

Mrs. Ria Manish Pardasani, 801, Laxmi Niwas, 16 th Road, Khar (West), Mumbai - 400052 PAN: AHDPP1963D	Vs.	The ACIT-12(3)(2), Aaykar Bhawan, Mumbai - 400020
(Appellant)		(Respondent)

Assessee by : Shri Prateek Jain (AR)

Revenue by : Shri Bharat Andhle (DR)

Date of Hearing : 09/09/2021

Date of Pronouncement: 27/09/2021

ORDER

PER SAKTIJIT DEY, JM

This is an appeal by the assessee against order dated 18.11.2019 of learned Commissioner of Income Tax (Appeals)-20, Mumbai for the assessment year 2013-14.

2. At the very outset, the learned Authorized Representative of the assessee submitted that there is a delay of 10 days in filing the appeal. Further, he submitted, the assessee has filed an affidavit seeking condonation of delay supported by an affidavit.

3. Having considered rival submissions and perused assessee's affidavit, we are satisfied that the delay in filing the appeal was due to reasonable cause.

Accordingly, we condone the delay and admit the appeal for adjudication on merit.

4. Briefly the facts are, the assessee is an individual. For the assessment year under dispute as the assessee filed return of income on 19.12.2013 declaring total income of Rs. 12,31,840/-. Assessment in case of the assessee was completed under section 143(3) of the Income Tax Act, 1961 vide order dated 09.03.2016 determining the total income at Rs. 2,04,77,190/-. Variance in the determination of total income was due to disallowance of deduction claimed under section 54F of the Act. Against the assessment order so passed, assessee preferred an appeal before learned First Appellate Authority. By the impugned order, learned Commissioner (Appeals) disposed of assessee's appeal ex-parte and while doing so he sustained the disallowance made by the AO.

5. Before us, learned Counsel for the assessee submitted, without providing reasonable opportunity of being heard to the assessee, learned Commissioner (Appeals) has dismissed the appeal by an ex-parte order. Thus, he submitted, the issue may be restored back to the First Appellate Authority for enabling the assessee to represent her case properly.

6. Learned Departmental Representative, though, submitted that the assessee did not avail the opportunity granted by learned Commissioner (Appeals). However, he did not have serious objection against restoration of the matter to learned Commissioner (Appeals).

7. Having considered rival submissions and perused the materials on record, we find that the dispute relates to disallowance of deduction under section 54F of the Act. Admittedly, learned Commissioner (Appeals) has

sustained the disallowance while deciding assessee's appeal ex-parte. From the observations of learned Commissioner (Appeals) in paragraph 4.1, it is seen that the notice of hearing issued to the assessee returned back un-served by the postal authorities. However, it is the case of the assessee that notices were never issued to the assessee in the proper address. Nevertheless, in our considered opinion, the assessee deserves a reasonable opportunity to establish her claim of deduction under section 54F of the Act, which she was unable to do due to ex-parte disposal of the appeal.

8. In view of the aforesaid, we are inclined to set aside the impugned order of learned Commissioner (Appeals) and restore the matter back to his file for de novo adjudication after due and reasonable opportunity of being heard to the assessee. Further, we direct the assessee to provide the latest address for communication of hearing notices and co-operate in effective disposal of the appeal by making proper representation before the First Appellate Authority. Grounds are allowed for statistical purposes.

9. In the result, appeal is allowed for statistical purposes.

Order pronounced in the open court on 27th September, 2021.

Sd/-
(RAJESH KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated: 27/09/2021

Alindra, PS

आदेश प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**