

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

BEFORE: SHRI. N.K.SAINI, VICE PRESIDENT

ITA No.640 & 642/Asr/2018
Assessment Year: 2013-14 & 2014-15

Shri Pancham Marwaha, Prop. Swastik Diamond,NK 157, Charanjit Pura, Jalandhar	Vs	The ITO, Ward 3(3) Jalandhar
PAN NO: AVKPM4030F		
Appellant		Respondent

Assessee by : Shri J.S. Bhasin, Advocate
Revenue by : Shri S.M. Surendranath, Sr. DR

Date of Hearing : 11/11/2021
Date of Pronouncement : 11/11/2021

Order

PER N.K. SAINI, VICE PRESIDENT

Both the above appeal filed by the assessee against the separate order of the Ld. CIT(A)-2, Jalandhar dt. 20/07/2018 and 23/07/2018 respectively .

2. Registry has pointed out that both the above appeal of the assessee are belated by 77 days and the defect memo was issued. In response to the said memo the assessee vide application dt. 10/11/2021 submitted as under:

PETITION FOR CONDONATION OF DELAY

1. It is humbly submitted that the present two appeals are directed against the orders of Ld. CIT(A)-2, Jalandhar on date 20.07.2018 and the other dated 23.7.2008 both received by assessee on 10.08.2018. Though in normal course, the appeals were to be filed before the Hon'ble ITAT on or before 10.10.2018, the same were filed only on 26.12.2018, thus resulting in 77 days delay in filing of appeals, as also pointed out by the registry.

2. Precise reasons, which occasioned the above unintended delay, are brought out here below, to enable the Hon'ble Bench to take a benevolent view in the matter:

a) That the appellant is an innocent young boy of about twenty seven years. Unaware of the intricate tax laws he remained dependent on his local counsel for all his income tax matters. However, having failed to see success in assessment as also in first appeals, he was no more keen to continue with said counsel, and looked for someone else to pursue his appeals before the Tribunal at Amritsar.

b) *The assessee being young and not known to any other counsel, and his father also being a retired employee from LIC, for quite some time, he could not approach another counsel, till, through one of his class mates, he came into contact with my junior advocate, known to the latter, whom he could approach only towards end of October 2018. However, since on the said day, I was away on some outstation professional work, he left the orders with my junior advocate, who in normal course, then busy with the filing of audit returns, forgot to hand over the orders to me and thereafter, it skipped his mind altogether till such time, the assessee checked up with him on 22nd December, 2018, if the needful had been done. Immediately thereafter, he located the orders, and thereafter, the appeals were prepared and after payment of appeal fee on 24.12.2018, the appeals were personally filed by me on 26.12.2018, when I visited ITAT for appearance in some other cases.*

c) *It was for all the above reasons that the delay in filing of the two appeals occurred. The assessee in fact being young and inexperienced, remained unguided and having left the orders, with my junior advocate, presumed in good faith, that the needful had been done, It was however, an inadvertent lapse on the part of my junior who, having received the orders, busy with other time barring work, forgot to pass on the same to me to ensure filing of appeals in time.*

a) *That while humbly praying the delay to be condoned in appreciation of the reasons stated hereinabove- it is submitted that the bonafide of the assessee is beyond any doubt. The delay was unintentional, devoid of any dilatory strategy to gain time and in any case, not to benefit the assessee in any manner.*

b) *Moreover, the assessee has already moved his application for settlement of the dispute under the Vivad se Vishwas scheme and in that view of the matter, the two appeals, if admitted after condoning the delay, would be withdrawn, for which an application has also been filed separately.*

Assessee's prayer:

That the delay be condoned, appeals be admitted and allowed to be withdrawn for its settlement under Vivad se Vishwas scheme.

Sd/-
(Pancham Marwaha)
Appellant

Sd/-
(J S Bhasin)
Advocate for assessee

3. During the course of hearing the Ld. Counsel for the assessee reiterated the contents of the aforesaid application and requested to condone the delay.

4. The Ld. DR although opposed the application for condonation of delay but could not controvert the aforesaid contention of the Ld. Counsel for the assessee.

5. After considering the submissions of both the parties and the material available on the record. I am of the view that the delay in filing the appeal by

the assessee was beyond his control. Therefore the same is condoned and the appeals are admitted.

6. In both the above appeals the Assessee furnished separate applications each dated 15/10/2021 for withdrawal of the appeals.

7. During the course of hearing the Ld. Counsel for the Assessee submitted that since the assessee has availed the immunity scheme i.e; Vivad Se Vishwas and the Income Tax Department has since issued Form No. 3/5, in response to the applications filed by the assessee, under section 5(1) of the Direct Tax Vivad se Vishwas Act, 2020, therefore the appeals of the assessee may be allowed to be withdrawn. The details of above said certificates are as under:

Sl.No.	Appeal No.	Name of Case	Certificate No.
1.	ITA No. 640/ASR/2018	Pancham Marwaha	246350550090221
2.	ITA No. 642/ASR/2018	Pancham Marwaha	246230910090221

8. The Ld. DR did not object if the above appeals of the assessee are dismissed as withdrawn.

9. In view of the above the appeals of the assessee are dismissed as withdrawn.

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

Order pronounced on 11/11/2021.

Sd/-
(N.K. SAINI)
VICE PRESIDENT

AG

Date: 11/11/2021

Copy of the order forwarded to :

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