

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Shri Shamim Yahya (AM)

I.T.A. No. 4667/Mum/2019 (A.Y. 2015-16)

The Siddha Cooperative Housing Society Limited Row House No. A-4/14 Siddharth Nagar Part-II Opp. Datta Mandir Road Goregaon East Mumbai-400 104. PAN : AAMAS0940C (Appellant)	Vs.	ITO-31(3)(4) Bandra Kurla Complex Bandra East Mumbai-400051. (Respondent)
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Assessee by	Shri Vijay Joshi
Department by	Shri Pravin Salunkhe
Date of Hearing	30.03.2022
Date of Pronouncement	01.04.2022

ORDER

This appeal by the assessee is directed against the order of learned CIT(A) dated 24.04.2019 pertains to A.Y. 2015-16.

2. The grounds of appeal read as under :

The learned Commissioner of Income Tax (Appeals) has erred in not condoning the delay in filing of Appeal since the delay occurred in the office of the professional to whom the work was entrusted. There being no delay on the part of the Appellant under the facts and circumstances of the case and Appellant having merits in the grievance, the learned Commissioner of Income Tax (Appeals) ought to have allowed the various contentions of appellant under the facts and circumstances of the case.

3. At the outset I note that assessee in this case is aggrieved by the learned CIT(A)'s order not condoning the delay of 80 days in filing the appeal. In this regard learned CIT(A)'s order is as under :-

It is seen from record that the appeal is filed online on 16/1/2018. As per appeal memo, the assessment order was served on 27/9/2017. Therefore there is a delay of more than 80 days in filing the appeal. The appellant in the appeal memo submitted that the assessment order is received in the

society and being a large society, the copy of order was furnished to the tax consultant belatedly though intimation of addition to income was conveyed to tax consultant. It was requested to condone the delay. I have considered the submission. It is noted from the appeal memo that the appeal fee was deposited on 29/9/2017 though the appeal was filed on 16/1/2018. I do not find any reason for the inordinate delay in filing the appeal, therefore considering the facts, the argument of the appellant does not inspire much confidence and credibility of the submission made is doubtful. In view of the same, the benefit of condone in filing the appeal is not allowed and the appeal is hereby not admitted and dismissed.

4. I note that the delay is not significant and on the facts and circumstances the same deserves to be condoned. The same is hence condoned as such. The merits have been dealt by learned CIT(A) in a cryptic, non-speaking and non-reasoned order which cannot be sustainable. Hence in the interest of justice the issue is remitted to the file of the learned CIT(A) to pass a speaking order as per law. Needless to add the assessee should be allowed opportunity of being heard.

5. In the result, appeal of the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 01.04.2022.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 01/04/2022

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai

PS