

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

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

ITA No.3681/Del/2019
Assessment Year: 2014-15

Murti Devi, Opp. Government College, Vill: Chaura, Ragunathpura Sector-22, Noida (UP)	Vs.	ITO, Ward-1(4), Ghaziabad.
PAN :BAEPD0881M		
(Appellant)		(Respondent)

Appellant by	N o n e
Assessee by	Ms. Garima Sharma, SR. DR

Date of hearing	14.06.2022
Date of pronouncement	24.06.2022

ORDER

PER SAKTIJIT DEY, JUDICIAL MEMBER:

This is an appeal by the assessee against order dated 31.01.2019 of learned Commissioner of Income-Tax (Appeals), Ghaziabad for the assessment year 2014-15.

2. When the appeal was called for hearing, none appeared on behalf of the assessee.
3. However, considering the nature of dispute, we proceed to dispose of the appeal ex parte qua the assessee with the able assistance of learned Departmental Representative and based on the material available on record.
4. We have heard learned Departmental Representative and perused the material on record.
5. The basic grievance, as it appears from the grounds raised, is with regard to ex parte disposal of the appeal by learned Commissioner (Appeals), that too, in limine without condoning delay.
6. As could be seen from the facts on record, assessee is a resident individual. Assessment in the case of assessee was completed under Section 143(3) of the Act vide order dated 21.12.2016 adding an amount of Rs.80,00,000 as unexplained cash credit under Section 68 of the Act. Against the assessment order so passed, assessee preferred an appeal before learned First Appellate Authority. However, alleging that the appeal filed by assessee was delayed and no satisfactory reason could be shown by assessee for condoning the delay, learned

Commissioner (Appeals) dismissed the appeal in limine by treating it as defective appeal.

7. As could be seen from the observations of learned Commissioner (Appeals), the case of assessee was, a copy of the assessment order was not served on her, and, she could file the appeal only after obtaining a certified copy of the assessment order on 10.01.2017. Apparently, learned Commissioner (Appeals) has disbelieved the aforesaid version of assessee. However, as per learned Commissioner (Appeals), own observation, assessee's appeal was delayed by eight (08) days. Thus, delay is not inordinate. That being the factual position, without being hyper technical, learned Commissioner (Appeals), in our view, should have condoned the delay and taken up the appeal for adjudication on merits. More so, considering the fact that assessee has contended that the copy of the assessment order was never served on her and she filed the appeal after receiving the certified copy of the assessment order on 10.01.2017. Merely because, assessee participated in the assessment proceeding does not prove that the assessment order was served on her on 22.12.2016. In any case of the matter, considering the fact that

delay, if any, in filing the appeal is a small delay, we set aside the impugned order of learned Commissioner (Appeals) and restore the matter back to him for deciding the appeal on merits.

6. Needless to mention, assessee must be provided reasonable opportunity of being heard before deciding the appeal. Grounds are allowed for statistical purposes.

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

Order pronounced in the open court on 24th June, 2022.

**Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER**

**Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER**

Dated: 24th June, 2022.
Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi

Sl. No.	Particulars	Date
1.	Date of dictation (Order drafted through Dragon software):	16.06.2022
2.	Date on which the draft of order is placed before the Dictating Member:	- .06.2022
3.	Date on which the draft of order is placed before the other Member:	
4.	Date on which the approved draft of order comes to the Sr. PS/PS:	20.06.2022
5.	Date of which the fair order is placed before the Dictating Member for pronouncement:	21.06.2022
6.	Date on which the final order received after having been singed/pronounced by the Members:	24.06.2022
7.	Date on which the final order is uploaded on the website of ITAT:	24.06.2022
8.	Date on which the file goes to the Bench Clerk	24.06.2022
9.	Date on which files goes to the Head Clerk:	
10.	Date on which file goes to the Assistant Registrar for signature on the order:	
11.	Date of dispatch of order:	