

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
 AND
 SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**

आयकर अपील सं. / ITA No.553/PUN/2021
निर्धारण वर्ष / Assessment Year : 2012-13

Suyojit Infrastructure Private Limited,
 F-1/2, Suyojit Heights,
 Sharanpur Road,
 Nashik - 422002

PAN : AAFCS1381N

.....अपीलार्थी / Appellant

बनाम / V/s.

Asst. Commissioner of Income Tax,
 Central Circle - 2, Nashik

.....प्रत्यर्थी / Respondent

Assessee by : Shri Pramod Shingte
 Revenue by : Shri M.G. Jasnani

सुनवाई की तारीख / Date of Hearing : 27-06-2022
 घोषणा की तारीख / Date of Pronouncement : 06-07-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 23-08-2021 passed by the National Faceless Appeal Centre, Delhi ('NFAC') for assessment year 2012-13.

2. We find that this appeal was filed with a delay of 03 days. Upon hearing both the parties, we find that the reasons explained by the assessee are bonafide which really prevented the assessee to file the appeal in time. Therefore, the delay of 03 days are condoned.

3. At the outset, we note that the NFAC, Delhi dismissed the appeal of assessee taking into account a copy of certificate in Form No. 3 issued by the PCIT, Nashik and by holding that the assessee got prescribed form for the purpose of section 5(1) of the DTVSV, 2020 and treated the appeal of assessee deemed to have been withdrawn. The ld. AR placed on record Form-5 relating to Certificate No. 735156300211120 dated 21-11-2020 and argued that this Form-5 is relating to ITA No. 971/PUN/2018 in respect of penalty imposed u/s. 271(1)(b) of the Act and argued that the CIT(A) by mistake held the Form-5 relating to dispute penalty to be relating to the quantum appeal and treated the same as deemed to have been withdrawn. The ld. DR did not dispute that Form-5 as placed on record by the ld. AR today before us is relating to dispute of penalty as imposed u/s. 271(1)(b) of the Act. We note that admittedly, the assessee availed DTVSV Scheme to the disputed penalty for A.Y. 2012-13 in ITA No. 971/PUN/2018 and the Certificate No. 735156300211120 dated 21-11-2020 issued by the Designated Authority determining the amount is related to disputed penalty as u/s. 271(1)(b) of the Act and the same the PCIT was taking into account while dealing the quantum appeal and treated the same as withdrawn by inadvertent mistake. Therefore, the order of CIT(A) is set aside and restore the present appeal to his file for fresh adjudication. The assessee is liberty to file evidences, if any, in

support of its claim. Thus, the grounds raised by the assessee are allowed for statistical purpose.

4. In the result, the appeal of assessee is allowed for statistical purpose.

Order pronounced in the open court on 06th July, 2022.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 06th July, 2022.

रवि

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), NFAC, Delhi
4. The CIT concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune