

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "B", PUNE

BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER AND  
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

ITA No.496/PUN/2019

निर्धारण वर्ष / Assessment Year : 2005-06

Shivaji Bhausahab Bankar Ambelohal, Tal. Gangapur, Dist. Aurangabad PAN : AHYPB2650C	Vs.	ITO, Ward 1(2), Aurangabad
Appellant		Respondent

Assessee by Shri Shubhada Koppa  
Revenue by Shri M.G. Jasnani

Date of hearing 06-07-2022  
Date of pronouncement 12-07-2022

आदेश / ORDER

PER S.S. GODARA, JM :

This assessee's appeal for AY 2005-06 arises against the CIT(A), Aurangabad's order dated 28-08-2013 passed in case No. ABD/CIT(A)/106/2008-09 in proceedings under Section 271(1)(c) of the Income Tax Act, 1961, in short 'the Act'.

Heard both the parties. Case file perused.

2. We note at the outset that the assessee's instant penalty appeal suffers from 1979 days delay in filing, which has been

stated to be attributable to various details reasons of lack of communication and intimation at various levels as well as completion of section 144 *ex-parte* assessment.

3. We note in this factual background that the assessee had filed his quantum appeal before this Tribunal ITA No.497/PUN/2019 against the CIT(A)-2, Aurangabad's order dated 28.08.2013, wherein the learned co-ordinate bench has not only condoned the corresponding identical delay but also restored the quantum issue(s) back to the assessing authority. Learned departmental representative could hardly pinpoint any distinction *qua* the reasons of condonation in both these appeals which already stands accepted in assessee's former case. Faced with this situation, we are of the opinion that the assessee's instant consequential penalty appeal also deserves to followed the suit in very terms. We accordingly, condone the impugned delay of 1979 days as neither intentional nor deliberate, but on account of reasons beyond assessee's control and leave it open for the learned assessing

authority to proceed afresh in the impugned penalty proceedings afresh as per law. Ordered accordingly.

4. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the Open Court on 12<sup>th</sup> July, 2022.

Sd/-  
**(DIPAK P. RIPOTE)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(S.S. GODARA)**  
**JUDICIAL MEMBER**

पुणे Pune; दिनांक Dated : 12<sup>th</sup> July, 2022  
GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A), Aurangabad
4. The CIT, Aurangabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" / DR 'B', ITAT, Pune
6. गार्ड फाईल / Guard file

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	07-07-2022	Sr.PS
2.	Draft placed before author	08-07-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		