

आयकर अपीलीय अधिकरण “एक सदस्य मामला” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH, PUNE

श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य के समक्ष ।
BEFORE SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.743/PUN/2018
निर्धारण वर्ष / Assessment Year : 2011-12

Shri Dilip Manichand Nahar,
Prop. M/s. Astha Foods,
C/o Akshay Ginning & Pressing,
Station Road, Near Mondha,
At Post Partur, Dist.-Jalna

PAN : AAPKN6118Q

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward – 1(3), Jalna

.....प्रत्यर्थी / Respondent

Assessee by : Shri M.K. Kulkarni

Revenue by : Shri M.G. Jasnani

सुनवाई की तारीख / Date of Hearing : 23-08-2022

घोषणा की तारीख / Date of Pronouncement : 24-08-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 07-12-2015 passed by the Commissioner of Income Tax (Appeals)-1, Aurangabad [‘CIT(A)’] for assessment year 2011-12.

2. At the outset, I note that the present appeal was filed with a delay of 807 days. The assessee filed notarized affidavit dated 06-03-2019 and also latest being as additional affidavit dated 03-08-2022 to condone the said delay by explaining reasons. On perusal of the notarized affidavit dated 06-03-2019, I note that the assessee stated that he received order dated 07-12-2015 passed by the CIT(A) on 09-12-2015 and the time limit for filing the appeal before this Tribunal being 60 days expires on 09-12-2015. The assessee states that his Consultant advised him not to file any further appeal before the Tribunal and subsequently, he was properly advised by the experts to file the appeal. The present appeal was filed with a delay of 807 days taking into account the relevant law w.e.f. 01-04-2006 relating to speculative transaction. I find that except the reason of advice of Consultant, there was no valid reason given by the assessee which really prevented in filing the appeal in time before this Tribunal. Further, on perusal of the additional notarized affidavit dated 03-08-2022, I note that the assessee reiterated the same explanation which was stated in the earlier notarized affidavit as discussed above. I note that in the second notarized affidavit also the assessee did not show any sufficient cause to condone the delay of 807 days except repeating the same that the appeal was not filed on the basis of advice of his Consultant. Upon hearing the Ld. AR and Ld. DR along with the contents in both the affidavits, I am of the opinion that the assessee failed to make out a sufficient cause which really prevented the assessee in filing the appeal in time before this Tribunal. The reason explained by the assessee in both the notarized affidavits that the appeal was not filed on the advice of his Consultant does not constitute a sufficient cause to condone the delay of 807 days, thus the

reasons stated in both the notarized affidavits are not acceptable and consequently, the delay of 807 days is not condoned.

3. In view of my decision in not condoning the delay of 807 days, the issues raised in appeal by the assessee becomes infructuous and are dismissed as such.

4. In the result, the appeal of assessee is dismissed.

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

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

पुणे / Pune; दिनांक / Dated : 24th August, 2022.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-1, Aurangabad
4. The Pr. CIT-1, Aurangabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक सदस्य मामला" बेंच, पुणे / DR, ITAT, "SMC" 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