

आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE

**BEFORE SHRI S.S.GODARA, JM
AND SHRI DR. DIPAK P. RIPOTE, AM**

आयकर अपील सं. / **ITA No.460/PUN/2020**
निर्धारण वर्ष / Assessment Year : 2011-12

Girish Yegappa Tangadi,
Bhuvanesh Kankani & Associates,
Chartered Accountants,
Office No.121, Poornima Towers,
Beside Bharat Petrol Pump,
Shankar Seth Road,
Pune – 411 037

PAN : ABSPT337IL

.....अपीलार्थी / Appellant

बनाम / V/s.

ITO, Wd 2(4), Sangli

.....प्रत्यर्थी / Respondent

Assessee by : None
Revenue by : Shri Arvind Desai

सुनवाई की तारीख / Date of Hearing : 21.06.2022
घोषणा की तारीख / Date of Pronouncement : 29.08.2022

आदेश / ORDER

PER S. S. GODARA, JM :

1. This assessee’s appeal for A.Y. 2011-12 is directed against the CIT(A)-1, Kolhapur’s order dated 22/01/2020 passed in case No. SLI/262/2015-16 involving proceeding u/s. 271(1)(c) of the Income Tax Act, 1961; in short "the Act".

Case called twice. None appears at the assessee's behest. He is accordingly proceeded ex-parte.

2. It emerges during course of hearing that the CIT(A)'s impugned lower appellate order has refused to condone 520 days delay in filing of the lower appeal which was stated to be attributable to lack of communication between the taxpayer and tax consultants at various levels. Learned CIT(A) appears to have confirmed section 271(1)(c) penalty in issue of Rs.1,77,530 in other words without deciding correctness thereof on merits.

3. Faced with this situation, we quote hon'ble apex court's land mark decision in the Collector Land Acquisition V/s. Mst. Katiji & Others (1987) 167 ITR 471 (SC) that of these technical aspect must make way for the cause of substantial justice and observe that the assessee was prevented from instituting lower appeal on account of circumstances beyond his control. We accordingly condone the impugned delay of 520 days in filing his lower appeal as neither intentional nor deliberate and direct the learned CIT(A) to adjudicate the same on merits within three effective opportunities of hearing as contemplated section 250(C) of the Act. Ordered accordingly.

Delay of 106 days in filing of the instant appeal instituted on 06.07.2020 stands condoned since falling in Covid-19 pandemic outbreak period.

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

Order pronounced in the Open Court on this 29th day of August, 2022.

Sd/- (DR.DIPAK P.RIPOTE)	Sd/- (S.S. GODARA)
लेखा सदस्य/ ACCOUNTANT MEMBER	न्यायिक सदस्य/JUDICIAL MEMBER
पुणे / Pune; दिनांक / Dated : 29 th August, 2022.	
Ashwini	

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

1. अपीलार्थी / The Appellant.
 2. प्रत्यर्थी / The Respondent.
 3. The CIT(A)-1, Kolhapur.
 4. The Pr.CIT-1, Kolhapur.
 5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
 6. गार्ड फ़ाइल / Guard File. आदेशानुसार / BY ORDER,
- // True Copy //

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

S.No.	Details	Date	Initials
1	Draft dictated on	21.06.2022	
2	Draft placed before author	22.08.2022	
3	Draft proposed & placed before the Second Member		
4	Draft discussed/approved by Second Member		
5	Approved Draft comes to the Sr. PS/PS		
6	Kept for pronouncement on		
7	Date of uploading of Order		
8	File sent to Bench Clerk		
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R.		
11	Date of Dispatch of order		