

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH**  
**BENCH 'B' CHANDIGARH**

**BEFORE: SMT. DIVA SINGH, JUDICIAL MEMBER &**  
**SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER**

**आयकर अपील सं./ ITA No. 3/CHD/2021**  
(Under Section 12AA)

Society for Kidney Care, C/o Dr. Sanjay Vikrant, Set No.2, Block-B, Lakkar Bazar, Shimla.	बनाम VS	The CIT(Exemption), Chandigarh.
स्थायी लेखा सं./PAN /TAN No: AABBS4783R		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Vishal Mohan, Advocate  
राजस्व की ओर से/ Revenue by : Shri Sarabjeet Singh, CIT-DR  
तारीख/Date of Hearing : 11.07.2022  
उद्घोषणा की तारीख/Date of Pronouncement : 29.08.2022

**आदेश/ORDER**

**PER DIVA SINGH**

The present appeal has been filed by the assessee wherein the correctness of the order u/s 12AAA(1)(b)(ii) of the Income Tax Act, 1961 dated 21.09.2020 passed by Id. CIT (Exemptions) Chandigarh is assailed on the following grounds :

- 1. That the Worthy Commissioner of Income Tax (Exemptions), Chandigarh has erred in rejecting the appellant's application for registration u/s 12AA of the Income Tax Act 1961.*
- 2. That the worth Commissioner of Income Tax (Exemptions) has failed to appreciate the facts that the notice was never served on the assessee on the basis of which the exemption u/s 12AA of the Income Tax Act 1961 has been denied to the assessee.*
- 3. That the Appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.*

2. Before addressing the specific grievance of the assessee, delay of 66 days pointed out by the Registry needs to be addressed. The ld. AR addressing the same relies upon the condonation of delay application so as to argue that the delay has occurred during the COVID period and the application filed is supported by the affidavit of Dr. Geeta Ram Tegta, Vice President of assessee Society, age 62 years. Accordingly, it was his prayer that delay of 66 days may be condoned. Specific application reads as under :

1. *That the order appealed against was uploaded on the website of the Income Tax Department on 21.09.2020 and last date of limitation in filing of the appeal expired on 20.11.2020.*
2. *The appeal was sent by registered post on 20.01.2021 leading to the delay of 66 days in filing of appeal. The appeal could not be filed in time as the applicant-Society is being managed and run by Doctors, who were busy in combating Covid-19 Pandemic and did not peruse the website. They came to know about the uploading of the said orders in the month of January, 2021 and immediately thereafter took up the matter with their-counsel who immediately advised them and preferred present appeal. More so, the Hon'ble Supreme Court of India had been pleased to extend the limitation in filing of appeals. Copy of the said judgment is being placed on record for your kind perusal and ready reference.*
3. *No prejudice shall be caused to the non-applicant if the delay is condoned, whereas the applicant will be put to irreparable loss.*
4. *Keeping the above factual matrix of the case in mind, It is most respectfully prayed that delay in filing of appeal, if any may kindly be condoned and the appeal be ordered to be heard on merits in the interest of justice or any other order may pass which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case."*

3. The ld. CIT-DR Mr. Sarabjeet Singh considering the facts and the affidavit on record fairly submitted that the delay may be condoned as it pertains to the COVID period.

4. We have heard the rival submissions and perused the material available on record and considering the same in terms of the decision of the Hon'ble Supreme Court dated 8<sup>th</sup> March,2021, delay of 66 days is condoned. We have seen that specific period is covered by the said order. Same reads as under :

**O R D E R**

1. *Due to the onset of COVID-19 pandemic, this Court took suo motu cognizance of the situation arising from difficulties that might be faced by the litigants across the country in filing petitions/applications/suits/appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central or State). By an order dated 23.03.2020 this Court extended the period of limitation prescribed under the general law or special laws whether compoundable or not with effect from 15.03.2020 till further orders. The order dated 23.03.2020 was extended from time to time. Though, we have not seen the end of the pandemic, there is considerable improvement. The lockdown has been lifted and the country is returning to normalcy. Almost all the Courts and Tribunals are functioning either physically or by virtual mode. We are of the opinion that the order dated 23.03.2020 has served its purpose and in view of the changing scenario relating to the pandemic, the extension of limitation should come to an end.*

2. *We have considered the suggestions of the learned Attorney General for India regarding the future course of action. We deem it appropriate to issue the following directions: -*

1. *In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.*

2. *In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.*

3. *The period from 15.03.2020 till 14.03.2021 shall prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.*

4. *The Government of India shall amend the guidelines for containment zones, to state.*

*"Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements."*

3. *The Suo Motu Writ Petition is disposed of accordingly.*

*CJI.*  
*[ S. A. BOBDE ]*  
*J.*  
*[ L. NAGESWARA RAO ]*  
*J.*  
*[ S. RAVINDRA BHAT ]*

*New Delhi*  
*March 08,2021.*

5. Accordingly, the delay is condoned.
6. The ld. AR inviting attention to the impugned order submitted that the appeal of the assessee was dismissed on account of fact that the hearing which were fixed during the Covid period were not responded to. The conditions prevalent as argued may be considered as reasons for inability to participate. Accordingly, in the said background, it was his limited prayer that he would be satisfied if the application of the assessee is restored back for consideration afresh. The ld. AR offered his oral undertaking that in the eventuality of remand back, the assessee shall fully participate in the proceedings.
7. The ld. CIT-DR Mr. Sarabjeet Singh considering the record posed no objection to the prayer of the assessee seeking a remand back.
8. We have heard the rival submissions and perused the material available on record. In the light of the prayer of the parties before the Bench and considering the material available on

record, we deem it appropriate to set aside the order back to the ld. CIT (E) with the direction to pass a speaking order in accordance with law after giving the assessee a reasonable opportunity of being heard. The assessee is directed to ensure full and proper participation. It is made clear that in the eventuality of abuse of the trust reposed, the ld. CIT (E) shall be at liberty to pass the order on the basis of the material available on record. Said order was pronounced in the Open Court at the time of hearing itself.

9. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced on 29<sup>th</sup> August,2022.

**Sd/-**  
**(VIKRAM SINGH YADAV)**  
**लेखा सदस्य/ Accountant Member**  
“Poonam”

**Sd/-**  
**(DIVA SINGH)**  
**न्यायिक सदस्य/ Judicial Member**

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar