

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC - C” BENCH : BANGALORE**

BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT

ITA No.180/Bang/2022
Assessment Year : 2015-16

Shri. Arvind Mangilal Jain, No.11, 1 st Floor, Chinnu Building, D S Lane, Chickpet, Bengaluru – 560 002. PAN : ACO PJ 3142 L	Vs.	The ITO, Ward – 5(1)(3), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Balram R. Rao, Advocate
Revenue by	:	Shri. Ganesh R. Ghale, Standing Counsel

Date of hearing	:	21.11.2022
Date of Pronouncement	:	23.11.2022

ORDER

This is an appeal by the assessee against the order of the CIT(A)-5, Bengaluru, dated 26.06.2018, relating to Assessment Year 2015-16.

2. There is a delay of about 582 days in filing the appeal by the assessee. It has been stated in the affidavit filed by the assessee for condonation of delay in filing the appeal that the assessee entrusted the filing of appeal before CIT(A) against the Order of Assessment dated 22.12.2017 to Chartered Accountant (CA) with instructions to file the appeal. The affidavit is silent with regard to the date on which the papers were handed over to the CA. It appears that the assessee did not contact the CA till the AO contacted the assessee in January 2022 for recovery of outstanding demand and when he informed that the Assessee that the Assessee’s appeal before CIT(A) has been dismissed. Thereafter the

assessee came to know that his CA filed an appeal before the CIT(A) but did not appear before for proceedings before the CIT(A) and therefore the appeal of the assessee was dismissed on 26.06.2018. Thereafter, the assessee contacted his CA and he was also not aware of the fact that the appeal was dismissed. The CA informed the assessee that due to inadvertent error and unintentional oversight, he did not appear before the CIT(A) and the appeal came to be dismissed. Thereafter, the assessee contacted the present Advocate in February 2022 and filed the appeal along with an application for condonation of delay. It is in these circumstances that the assessee has prayed that the delay in filing the appeal should be condoned.

3. Learned Counsel for the assessee reiterated the plea of the assessee as contained in the affidavit for condonation of delay. Learned DR opposed the prayer of the assessee for condoning delay in filing the appeal and brought to our notice the decision of Hon'ble Supreme Court in the case of Majji Sannemma Vs. Reddy Sridevi & Ors. in Civil Appeal No.7696/2021 dated 16.10.2021. The Hon'ble Supreme Court in this case has emphasized the need for the appellant to substantiate with cogent reasons for the delay.

4. I find that the Assessment Order was passed on 22.12.2017 and the papers must have been handed over to the CA for filing appeal before the CIT(A) in January 2018. It is hard to believe that till January 2022 assessee did not make any enquiry with the CA about the fate of his appeal. It is even more surprising, when it is said that even the CA did not know that the appeal was listed before CIT(A) and was dismissed for non-prosecution. From the affidavit, it appears that it is only the AO who informed the assessee in January, 2022, that the assessee's appeal before CIT(A) was dismissed. It is thus clear that there has been clear lack of diligence on the

part of the assessee and therefore the delay in filing the appeal cannot be accepted as owing to reasonable cause. Hence, I refuse to condone the delay in filing the appeal and dismiss the appeal as unadmitted.

5. In the result, appeal of the assessee is dismissed as unadmitted.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-
(N. V. VASUDEVAN)
Vice President

Bangalore,
Dated: 23.11.2022.
/NS/*

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| 1. Appellants | 2. Respondent |
| 3. CIT | 4. CIT(A) |
| 5. DR | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.