

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

BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT

ITA No.29/Bang/2022
Assessment Year : 2014-15

Shri. Chandre Gowda, No.655, Unnathi, 2 nd Cross, HMT Layout, R. T. Nagar, Bengaluru – 560 032. PAN : ADNPG 8890 J	Vs.	CIT (Appeals) - 7, 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 directed against the order of CIT(A)-7, Bengaluru, dated 12.10.2017, relating to Assessment Year 2014-15.

2. There is a delay of about 1501 days in filing the above appeal by the assessee. The order of the CIT(A) was passed on 12.10.2017. Appeal before the Tribunal has to be filed within 60 days from the date of service of the order of CIT(A). In Form 36, the assessee has given the date of service of communication of the order as 11.10.2017 which is obviously not correct. The correct date as given in the affidavit filed by the assessee for condonation of delay in filing the appeal is 09.12.2017 as the date of service of the order of the CIT(A) on the assessee. We, therefore, proceed under the assumption that the date of order is the date of service of the order on the assessee. The assessee ought to have filed the appeal before the

Tribunal within 60 days from the date of receipt of the order of the CIT(A) i.e., on or before 11.12.2017. The assessee has, however, filed the appeal only on 21.01.2022 with a delay of 1501 days.

3. The assessee has filed an affidavit giving reasons as to why the appeal was filed belatedly. It has been stated therein that in the month of January, 2018, the assessee handed over all the papers for filing the appeal to M/s. Shivananda Hegde and Associates, Tax Consultants. It appears that subsequently the assessee came to know that Mr. Shivanand Hegde met with road accident and died during February, 2019. Thereafter, the assessee approached his colleagues regarding the status of appeal and came to know that the appeal has not been filed. Thereafter, the assessee contacted Mr. Mahesh Nayak, CA and filed the appeal before the Tribunal. The assessee claims that there is a delay of 3 years and 9 months in filing the above appeal. It has also been stated that the assessee fell sick on account of slip disk and could not attend to his affairs as he was bedridden and hospitalized and was on medical treatment from November 2013 to December 2018. It has been claimed that the delay in filing the appeal by the assessee was only due to ill health of the assessee and due to the change of Chartered Accountants.

4. 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.

5. I have considered the rival submissions and I am of the view that the assessee has not satisfactorily explained the reasons for the delay in filing

the appeal. The date of receipt of the order of the CIT(A) is in the month of December 2017. The period during which the new Chartered Accountant was identified is in the month of February 2019. The period of illness of the assessee is from November 2013 to December 2018. The appeal has been filed only in the month of January, 2022. The only explanation of the assessee is that he came to know about the appeal not having been filed before the Tribunal and therefore approached a new Counsel. The relevant dates during which the assessee came to know about the non filing of appeal before the Tribunal and when he approached a new Counsel have not been given. The delay in filing the appeal is inordinate. Though it is true to say that substantive justice should prevail over technicalities, inordinate delay coupled with lack of proper explanation from the assessee can only lead to an inference that there is no reasonable cause or satisfactory explanation for the delay in filing the appeal. The period of treatment is also as an out-patient in Bangalore Baptist Hospital. In the given facts and circumstances of the case, I am of the view that the assessee has failed to satisfactorily explain the delay in filing the appeal before the Tribunal. Hence, I refuse to condone the delay in filing the appeal and dismiss the appeal as unadmitted.

6. 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.