

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

(Through Virtual Court)

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

आयकर अपील सं. / ITA No.45/PAN/2020  
निर्धारण वर्ष / Assessment Year : 2009-10

Bhatkal Agriculture & Rural Development  
Co-operative Bank Ltd.,  
NH-17, Bhatkal – 581320  
Uttar Kannada

PAN : AAAAP1731G

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Income Tax Officer,  
Ward – 1, Karwar

.....प्रत्यर्थी / Respondent

Assessee by : Shri Ravish Rao  
Revenue by : Smt. Neelima Nadkarni

सुनवाई की तारीख / Date of Hearing : 30-11-2022  
घोषणा की तारीख / Date of Pronouncement : 02-12-2022

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the assessee against the order dated 13-01-2020 passed by the Commissioner of Income Tax (Appeals), Mangaluru [‘CIT(A)’] for assessment year 2009-10.

2. The assessee raised five grounds of appeal amongst which the only issue emanates for my consideration is as to whether the CIT(A) is justified in dismissing the grounds of appeal in limine without condoning the delay.

3. The ld. AR, Shri Ravish Rao submits that the CIT(A) did not condone the delay of 1234 days in filing the appeal. The ld. AR contends that the AO passed order u/s. 143(3) of the Act on 05-09-2011 and passed another order u/s. 154 of the Act on his own instance in 2015. The AO without giving an opportunity to the assessee passed said order u/s. 154 of the Act making disallowance of Rs.6,01,482/-. The assessee only came to the knowledge of passing of said order when the Department insisted for realization of demand. The ld. AR drew my attention to the order passed u/s. 154 of the Act, wherein, he vehemently contended that the name reflected in the said order is not matching with the name of the present assessee and the original assessment order date is also incorrect. Further, there is a mismatch in the figure of disallowance made by the AO u/s. 80P to the figure in assessed income. The ld. AR vehemently argued that the order passed u/s. 154 is not sustainable as there was no opportunity for the assessee and the CIT(A) without considering the same dismissed the appeal in limine. The ld. AR prayed to remand the matter to the file of CIT(A) for its fresh adjudication.

4. The ld. DR, Smt. Neelima Nadkarni opposed the submissions of the assessee and drew my attention to para 3.2 of the impugned order. She contended the submissions made by the ld. AR before the Tribunal are contrary to the submissions made before the CIT(A) for condonation of

delay of 1234 days. However, the ld. DR did not report objection in remanding the matter to the file of CIT(A) for its fresh adjudication.

5. Heard both the parties and perused the material available on record. I note that on careful perusal of the order passed u/s. 154 of the Act, it is observed that the name of the assessee mentioned therein is not that of the assessee before me now, however, the PAN is the same as reflected in the said order passed u/s. 154 of the Act as well as the assessee before me. The ld. AR admitted that the PAN is similar be that of the order passed u/s. 154 of the Act and also in the case of the assessee. The ld. DR raised a doubt that the assessee must have changed its name from the name as mentioned in 154 order to the present name, because of the same the system must have identified the PAN by fifth letter of the PAN. Further, the ld. DR fairly conceded that the figure of disallowance is mismatched of the assessment assessed income in the said order. Further, she contended that enquiries required in order to find out the name of the assessee, the difference in figure of disallowance vis-à-vis to assess income, the seat of AO whether it is Karwar or Bangalore. As has been discussed above, I find force in the arguments of ld. AR in remanding the matter to the file of CIT(A) for its fresh examination as to find out the correct of name, date of assessment order passed u/s. 143(3) of the Act, the difference in figure in disallowance as well as assessed income. Therefore, taking into consideration the peculiar facts and circumstances of the case and the submission of ld. AR and DR and in the interest of justice, I deem it proper to remand the matter to the file of CIT(A) for its fresh consideration with a direction to condone the delay of 1234 days and adjudicate the issue on

merits. The assessee is liberty to file evidences, if any, in support of its claim. Thus, the grounds raised by the assessee are allowed for statistical purpose.

6. In the result, the appeal of assessee is allowed for statistical purpose.

Order pronounced in the open court on 02<sup>nd</sup> December, 2022.

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

पुणे / Pune; दिनांक / Dated : 02<sup>nd</sup> December, 2022.  
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), Mangaluru
4. The Pr. CIT, Mangalore
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पणजी,  
/ DR, ITAT, Panaji.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune