

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "E": DELHI

BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
And
SHRI NARENDER KUMAR CHOUDHARY, JUDICIAL MEMBER

ITA.No.521/Del./2019
Assessment Year : 2015-16

Shri Manoj Kumar Goyal, Matawali Gali, Dankaur, Gautam Budh Nagar- 203201 (UP) PAN : AEHPG3569D	vs.	The DCIT, Central Circle Ghaziabad
(Appellant)		(Respondent)
For Assessee :		-None-
For Revenue :		Ms. Sarita Kumar, CIT DR
Date of Hearing :		15.12.2022
Date of Pronouncement :		20.01.2023

ORDER

PER ANIL CHATURVEDI, A.M.

This appeal by assessee has been directed against the order of the Ld. CIT(A)-IV, Kanpur, dated 02.04.2018, relating to the A.Y. 2015-16.

2. The relevant facts as culled out from the material on record are as under :

2.1. Assessee is an individual. AO has noted that a search and seizure operation u/s. 132 of the Act was

conducted on 26.09.2014 on the premises of the assessee comprising KDP/MGI Group of cases. AO has noted that assessee electronically filed his return of income for A.Y. 2015-16 on 31.03.2016 declaring total income of Rs.94,61,990/-. The case of the assessee was selected for scrutiny and thereafter the assessment was framed u/s. 143(3) vide order dated 30.12.2016 and the total income was determined at Rs. 1,44,61,990/- . Aggrieved by the order of the A.O. the assessee carried the matter before the Ld. CIT(A), who vide order dated 02.04.2018 in Appeal No. CIT(A)-IV/11583/DCIT-CC/GZB/2016-17 dismissed the appeal of the assessee.

3. Aggrieved by the order of the Ld. CIT(A), the assessee is now in appeal before the Tribunal by raising the following grounds :

1. On the facts and in the circumstances of the case and in law the Ld. CIT(A) erred in confirming the addition made by the Assessing Officer in sum of Rs. 50 lakhs by invoking the provisions of Section 68 of the Income

Tax Act, 1961 treating an advance received against sale of property as unexplained cash credit.

Such addition being arbitrary, erroneous and unlawful must be quashed with directions for relief.

4. Form 36 filed by the assessee reveals that the order of Ld. CIT(A) dated 02.04.2018 was communicated to the assessee on 13.04.2018 but the appeal was filed on 24.01.2019 and therefore the Registry has noted the assessee has filed that appeal which is time barred by 226 days. Assessee has not filed any application seeking condonation of delay nor has explained the reasons for delay in the filing of the appeal.

5. We find that Hon'ble Supreme Court in the case of **Calcutta Municipal Corpn. Vs. P.K Saraf AIR 1999 SC 738** have held that even if the court should be liberal in condonation of delay, it should be inexcusable unless sufficient cause is shown. It is not the law that when an application seeking the condonation of delay is filed the court must invariably condone the delay irrespective of

whether sufficient cause is shown or not. The case file further reveals that the matter was listed for hearing on various occasions in the past but on all those dates there was neither any appearance by the assessee or his Counsel or any adjournment application was filed. Preferring an appeal does not mean mere formally filing it but also taking all the steps to effectively pursue the appeal.

6. In view of the aforesaid, we dismiss the appeal of the assessee in limine without going into the merits of the grounds raised therein.

7. **In the result, the appeal of the assessee is dismissed.**

Order pronounced in the open court on 20.01.2023.

Sd/-
[N.K. CHOUDHARY]
JUDICIAL MEMBER

Sd/-
[ANIL CHATURVEDI]
ACCOUNTANT MEMBER

Delhi, Dated 20th Jan, 2023

NV/-

Copy to

1.	The appellant
2.	The respondent
3.	Ld. CIT(A) concerned
4.	CIT concerned
5.	DR ITAT "E" Bench, Delhi
6.	Guard File

//By Order//

Assistant Registrar, ITAT, Delhi Benches,
Delhi.