

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

**BEFORE SHRI GEORGE GEORGE K., JUDICIAL MEMBER
AND
Ms. PADMAVATHY S, ACCOUNTANT MEMBER**

ITA No.21/Bang/2023
Assessment year : 2006-07

Bhagyalakshamma Ramanada Rao Deshpande, No.304, 1 st Allotment, Maruthinagar, Venkatala, 3 rd Main, 5 th Cross, Yelahanka, Bangalore – 560 004. PAN: AFRPD 6592G	Vs.	The Income Tax Officer, Ward 5(3)(1), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Smt. Prathibha R., Advocate
Respondent by	:	Smt. Priyadarshini Baseganni, Addl.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	09.03.2023
Date of Pronouncement	:	09.03.2023

ORDER

Per Padmavathy S., Accountant Member

This appeal is against the order of CIT(A), NFAC dated 25.11.2022 for the assessment year 2006-07.

2. The assessee is an individual and filed a return of income after claiming exemption u/s. 10(10C) of the Income-tax Act, 1961 [the Act] in respect of compensation received from Astra Zeneca Pharma India

Ltd. on account of voluntary retirement. The return was processed u/s. 143(1) in which the exemption claimed was denied.

3. Aggrieved by the intimation the assessee filed an application u/s. 154 of the Act by stating that the assessee has satisfied the conditions for eligible deduction u/s. 10(10C) of the Act. However, the AO after seeking clarification from Astra Zeneca had concluded that the amount of compensation would not fall within the conditions provided u/s. 10(10C) of the Act and accordingly declined to rectify the intimation by rejecting the application made u/s. 154.

4. Aggrieved, the assessee filed an appeal before the CIT(A), who rejected the same by stating that there is an inordinate delay of 10 years in filing the appeal before him. The CIT(A) rejected the appeal in limine by stating that there is no sufficient cause within the meaning of section 249(3) to condone the delay. Aggrieved, the assessee is in appeal before the Tribunal.

5. The assessee raised grounds contending the order of the CIT(A) on merits as well as the CIT(A) not condoning the delay without considering the bonafide reasons given by the assessee.

6. During the course of hearing, the Id AR submitted that the appeal as held by the CIT(A) was not filed on 30.7.2019 but filed on 2.9.2009 with a delay of 118 days. The Id AR further submitted that the assessee originally filed the appeal before the CIT(A) manually on 2.9.2009 and condonation petition was filed on 20.12.2010. The

assessee did not get any notice with regard to the hearing before the CIT(A) and the assessee did not pursue the appeal further. The Id AR also submitted that the assessee uploaded the same appeal online on 30.7.2019 which has been considered now by the CIT(A) stating that there has been a delay of 10 years in filing the appeal.

7. The Id DR supported the order of the CIT(A) and submitted that the assessee did not provide any documentary evidence to support that the appeal was originally filed manually and the condonation petition was also filed before the CIT(A).

8. We heard the parties and perused the material on record. We notice that the main reason for the CIT(A) for not condoning the delay which according to the CIT(A) was 10 years is that the assessee did not furnish any proof that the appeal was filed manually on 2.9.2009 and that the condonation petition was also filed on 20.12.2010. Before us, the Id AR produced copies of the above two documents with the acknowledgement of having been filed manually. In our view, the CIT(A) could not adjudicate the issue of condoning the delay properly for the reason that the assessee did not file any documents in this regard. We therefore remit the appeal back to the file of CIT(A) to consider the appeal filed manually on 2.9.2009 and the condonation petition filed on 20.12.2010 for the purpose of adjudicating the appeal de novo. The assessee is directed to file the necessary papers before the CIT(A) and cooperate with the proceedings. Since we have remitted the issue back to the CIT(A) to consider the issue of

condoning the delay afresh, the grounds with regard to the merits of the case have become academic and accordingly left open.

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

Pronounced in the open court on this 9th day of March, 2023.

Sd/-

Sd/-

(GEORGE GEORGE K.)
JUDICIAL MEMBER

(PADMAVATHY S.)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 9th March, 2023.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.