

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

I.T.A. No. 7/Asr/2022
Assessment Year: 2017-18

Sh. Nitin Sehgal
96-Guru Nagar,
Near PPR Mall, Jalandhar
[PAN: AQVPS 9023N]
(Appellant)

V. The Deputy Commissioner of
Income Tax, Circle-3,
Jalandhar
(Respondent)

Appellant by None

Respondent by Sh. S. R. Kaushik, CIT- DR

Date of Hearing : 26.04.2023
Date of Pronouncement : 15.05.2023

ORDER

Per Dr. M. L. Meena, AM:

This appeal has been filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-2, Jalandhar dated 24.09.2019 in respect of Assessment Year: 2017-18.

2. The assessee has raised the following grounds of appeal:

- “1. That the order of the Ld. CIT(A) is against law and facts of the case on the file.
2. That the Ld. CIT(A) gravely erred in sustaining the assessment wrongly framed u/s 143(3) of the Income Tax Act, 1961.
3. That the Ld. CIT(A) gravely erred in sustaining addition of Rs. 6,50,000/- in respect of cash seized from the assessee.
- 3.1 That while sustaining the addition, the Ld. CIT(A) did not appreciate the source of amounts and the cash flow chart filed during the assessment proceedings.
4. That the appellant begs to add or amend any ground of appeal before the appeal is heard and disposed off.”

3. None appeared for the assessee in spite of the fact that the appellant has been given many opportunities of being heard by fixing hearing on 01.09.2022, 17.11.2022, 16.02.2023, 22.03.2023 and 26.04.2023 except Sh. Nitin Sehgal, the appellant himself had appeared only once on 16.02.20223 and short adjournment with a request to file written submission. However, on subsequent dates, he neither appeared nor any Authorized Representative (AR) did appear on behalf of the appellant. It was noticed that there was a delay of 781 days in filing the appeal. Under the circumstances, after hearing the Ld. DR, it was decided to adjudicate the issue of condonation of delay, considering the material available on record.

4. There was a delay of 781 days in filing the appeal before the Tribunal by the assessee for the reasons mentioned in its application dated: 01/2022 for condonation of delay which is reproduced as under:

**BEFORE THE HON'BLE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

Sh. Nitin Sehgal
96-Guru Nagar, Near
PPR Mall, Jalandhar

---VS---

**The Deputy
Commissioner of
Income Tax, Circle -3,
Jalandhar**

(Appellant)

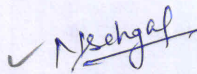
(Respondent)

APPLICATION FOR REQUEST FOR CONDONATION OF DELAY:

The assessee respectfully submits as under: -

1. That I could not file the appeal earlier as I was not aware of any appeal order passed by the Ld. Commissioner of Income Tax (Appeals)-2, Jalandhar.
2. That Sh. Nitin Sehgal could not file the appeal earlier due to his illness as he was suffering from 'Depression' and he was also under treatment and lying on sick bed at home. Due to this reason he did not receive any notice or order from the office of the Ld. Commissioner of Income Tax (Appeals)-2, Jalandhar and could not contact any professional to file appeal before the Hon'ble Income Tax Appellate Tribunal.

It is prayed that the delay in filing of the appeal before the Hon'ble Income Tax Appellate Tribunal was due to the above reason which is prayed to be condoned.

✓ 
(Appellant)

Dated: .01.2022

5. The Ld. DR has objected to the request of the appellant for condonation of inordinate delay of 781 days in absence of reasonable cause and that merely mentioning illness without support of any affidavit could not per take the reasons or cause which prevented the appellant to file appeal in the prescribed time limit. He pleaded that the petition of the appellant may not be admitted on merits.

6. We have heard the Ld. DR at length, perused the material on record and condonation application filed by the appellant assessee. The assessee has merely stated in its application firstly, that he was not aware of any appeal order passed by the Ld. Commissioner of Income Tax (Appeals)-2, Jalandhar and secondly, that earlier due to his illness as he was suffering from 'Depression' and he was also under treatment and lying on sick bed at home, however the facts are not supported either by any medical certificate or affidavit. In our view, there was no sufficient cause for the aforesaid inordinate delay of 781 days in filing the appeal. Considering into account totality of two reasons mentioned by the appellant in this particular case, the appellant failed to mention in its application or at the date of hearing once he attended on 16/02/2023, any cogent and satisfactory explanation for inordinately long delay of 781 days in filing the appeal before the

Tribunal, although he has been granted as many as 5 opportunities of being heard.

7. On the matter of condonation of inordinate delay of 613 days, the Hon'ble Jurisdictional High Court of Punjab & Haryana in the case of "Smt. Shakuntla Thukral vs. Commissioner of Income-Tax [2018] 99 taxmann.com 437, vide para 6 held as under:

6. The question regarding whether there is sufficient cause or not depends upon each case and primarily is a question of fact to be considered taking into account totality of events which had taken place in a particular case. No cogent and satisfactory explanation has been furnished by the learned counsel for the appellant-assessee even before this court for inordinately long delay of 613 days in filing the appeal before the Tribunal. The explanation furnished by the assessee as noticed in the earlier part of the order does not satisfy the test of sufficient ground as contemplated under section 5 of the Limitation Act, 1963. Thus, reliance of the learned counsel for the appellant on judgments of this court in Krishan Lal v. CIT ITA No. 279 of 2016, decided on February 9, 2017 and Harish Kumar Chhabra v. CIT ITA No. 38 of 2012, decided on August 28, 2012, is of no help to him.

8. Under the provision of Section 254 of the Income-tax Act, 1961, the Appellate Tribunal has constraints in exercising the Power of Condonation of delay in filing appeal where no cogent and satisfactory explanation had been furnished by assessee for inordinately long delays in filing appeal before Tribunal.

9. The question regarding whether there is sufficient cause or not depends upon each case and primarily is a question of fact to be considered taking into account totality of events which had taken place in a

particular case. In the instant case, there was No cogent and satisfactory explanation has been furnished by either the appellant or the learned counsel for the appellant assessee even before this Tribunal for inordinately long delay of 781 days in filing the appeal before the Tribunal in spite of being given five opportunities of being heard. The explanation furnished by the assessee in its application for condonation of delay, as noticed in the earlier part of the order does not satisfy the test of sufficient ground as contemplated under section 5 of the Limitation Act, 1963. Accordingly, application for condonation of delay is rejected and the appeal would be liable to be dismissed on ground of delay.

10. Since, the application for condonation of delay of 781 days is rejected, hence, the grounds rendered academic.

11. Respectfully, following the Hon'ble Jurisdictional High Court of Punjab & Haryana, the appeal of the assessee is dismissed on ground of delay.

12. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 15.05.2023

Sd/-
(Anikesh Banerjee)
Judicial Member

Sd/-
(Dr. M. L. Meena)
Accountant Member

GP/Sr./P.S.

Copy of the order forwarded to:

(1)The Appellant

- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By Order