

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI
BEFORE SHIR PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 507/Mum/2023

(A.Y: 2012-13)

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| Mr. Ramesh Manchhalal Purohit, 72 MG Mahimtura Marg, Khumbharwada, 3 rd Lane, Mumbai-400004 | Vs. | ITO – 19(3)(1) 202, 2 nd Floor, Matrumandir, Tardeo, Mumbai – 400007. |
| PAN/GIR No. : AAGPR9146Q | | |
| Appellant | .. | Respondent |

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| Appellant by : | Ms.Kinjal Bhuta.AR |
| Respondent by : | Ms.Jayashree Thakur.DR |

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| Date of Hearing | 24.04.2023 |
| Date of Pronouncement | 25.04.2023 |

आदेश / O R D E R

PER PAVAN KUMAR GADALE JM:

The appeal is filed by the assessee against the order of the National Faceless Appeal Centre (NFAC), Delhi/CIT(A) passed U/sec 250 of the Act. The assessee has raised the ground of appeal challenging the order of the CIT(A) dismissed on account of delay in filling the appeal without giving proper opportunity to the assessee.

2. The brief facts of the case are that the assessee is engaged in the business and has filed the return of income for the A.Y 2012-13 disclosing a total income of Rs.3,56,590/-and the return of income was processed u/s 143(1) of the Act. Further the case was selected for scrutiny and the Assessing Officer(A.O) made additions in respect of interest income of Rs. 55,312/- and Agricultural income of Rs.2,95,410/- and the assessment was completed u/s 143(3) of the Act determining the assessed income of Rs.7,07,310/-. Subsequently the AO has received information from the ITO (Inv), Thane in respect of transactions by the assessee with M/s Pramod Steel Company of Rs. 10 lakhs.

3. Therefore the AO has reason to believe that the income has escaped assessment and issued notice u/s 148 of the Act. In compliance to notice U/sec143(2) and 142(1) of the Act the assessee has filed the details referred at Para 5 of the assessment order and the AO has provided final opportunity to assessee to explain the purchases as mentioned in

the reassessment proceedings. Since, there was no compliance from the assessee, the AO has relied on the information and made addition of Rs.10 lakhs and assessed the total income of Rs.17,07,310/- and passed the order u/s 144 r.w.s 147 of the Act. Dated 21-12-2019.

4. Aggrieved by the order, the assessee has filed an appeal with the CIT(A), whereas the CIT(A) found that the appeal was filed with the delay of 508 days and the assessee has not filed the condonation application. Finally the CIT(A) observed that the appeal is not maintainable and dismissed. Aggrieved by the order of the CIT(A) the assessee has filed an appeal before the Honble Tribunal.

5. At the time of hearing, the Ld. AR submitted that the assessee could not appear before the CIT(A) due to personal reasons and Covid and the assessee has a good case on merits. Now the assessee is ready to file condonation application along with the evidences and

prayed for an opportunity of hearing before the CIT(A). Contra, the Ld. DR supported the order of CIT(A).

6. Heard the rival submissions and perused the material on record. The sole matrix of the disputed issue that the CIT(A) has dismissed the appeal as the delay in filling the appeal could not be explained by the assessee .The Ld.AR submitted that the assessee has received the order U/sec144 r.w.s147 of the Act on 9-08-2020 and the appeal was filed on 14-5-2021. The Ld.AR contentions are that the delay was due to Covid 2019 Pandemic and non availability of staff and the assessee is ready explain the delay before the CIT(A) and prayed for an opportunity. Therefore considering the facts, circumstances and the delay as discussed above, restore the disputed issue to the file of the CIT(A) to consider the application explaining the reasonable cause on the delay and adjudicate afresh on merits considering the material evidences filed in course of hearing. Further, the assessee should be provided adequate opportunity of hearing and cooperate in submitting the information for early disposal of

appeal and allow the grounds of appeal of the assessee for statistical purpose.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes

Order pronounced in the open court on 25.04.2023.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai, Dated 25.04.2023

KRK, PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त(अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//()

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(Asst. Registrar)
ITAT, Mumbai