

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE BENCH, INDORE**

**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER**  
**AND**  
**SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

**ITA No.654/Ind/2019**  
**(Assessment Year:2009-10)**

Ramchandra Mangilal Sarathe Gram Mathela Khandwa	Vs.	ITO-1 Khandwa
(Appellant / Assessee)		(Respondent/ Revenue)
<b>PAN: BFTPS 9031 N</b>		
Assessee by	None	
Revenue by	Shri Ashish Porwal Sr. DR	
Date of Hearing	20.07.2023	
Date of Pronouncement	21.07.2023	

**O R D E R**

**Per Vijay Pal Rao, JM:**

This appeal by the assessee is directed against the order dated 15.06.2016 of Ld. Commissioner of Income Tax (Appeals) (in short Ld. CIT(A), for Assessment Year 2009-10.

2. None has appeared on behalf of the assessee when this appeal is called for hearing despite the notices issued to the assessee through RPAD as well as on the e-mail ID and acknowledgement on record. The assessee has been taking adjournment of hearing in the past but for last several hearings non has been appeared on behalf of the assessee despite several notices. Accordingly the bench proposes to hear and disposed of this appeal ex-parte.



*conferred power to condone delay in order to enable the tribunal to do substantial justice. Also the expression "sufficient cause" should be adequately elastic to enable judicial bodies to apply the law in meaningful manner which sub serves the end of justice. Hence, a justifiably liberal approach should be adopted by the tribunal on principal.*

*Also, assessee sincerely accepts that he commits a technical mistake by not complying the time limits for filing an appeal before hon'ble Income Tax Appellate Tribunal. But when substantial justice and technical consideration are pitted against each other, the cause of substantial justice deserves to be preferred. Further before disposing any application, it should be convinced that assessee should not be prevented from the substantial justice and principals of natural justice should not be denied.*

*Therefore in the light of the above facts and circumstances arise before the assessee it is humble request before your office, kindly accept our plea and grant us the condonation of delay in filing of appeal before your office and oblige."*

4. On the other hand, Ld. DR has submitted that the assessee has not explained a reasonable cause for such inordinate delay in filing present appeal. He has objected to the condonation of the delay in filing the appeal.

5. We have considered the contents of the application for condonation of delay as well as contention of Ld. DR. The assessee has taken a plea of no knowledge of law for filing the appeal before the Tribunal against impugned order. The contents of the application as well as affidavit filed by the assessee are very vague and not even explaining a single reason with fact as when the assessee received the impugned order and when did he decided to file the appeal against impugned order. Further nothing has been explained in the application for condonation of delay as when the assessee realize or was advised to file the present appeal against impugned

order. It is pertinent to note that the assessee stated before the AO that he has been filing the return of income through his tax advisor Shri P.K. Shah and due to death of tax advisor he could not file the return in time for the year under consideration and subsequently return was filed belatedly therefore, it is not the case that the assessee was not aware about filing of return of income and proceedings of assessment and appeal before the Ld. CIT(A). When the assessee has filed the appeal before the Ld. CIT(A) through his counsel and also filed the present appeal through authorized representative then this cause of delay explained by the assessee of not having knowledge of income tax law is very vague and cannot be considered as a reasonable cause much less sufficient cause.

6. In the case in hand it is not an ordinary delay in filing the appeal which could be explained by taking plea of having no knowledge of limitation period but the delay is about three years and assessee has not given a single detail for explaining the reason except taking a plea of no knowledge of law. There is no quarrel that while considering the sufficient cause of delay a lenient view ought to be taken so that substantial justice has to be preferred then the technical consideration. However, it is also to be seen whether the explanation and the reasons for delay is bonafide or is merely a device to cover an ulterior purpose, such as laches on the part of the litigant or an attempt to save limitation in an underhand way. A liberal approach is to be taken while construing the sufficient cause for delay but it does not mean that litigant gets free license to approach the court on its will. The assessee has not given a single reason which has caused any hindrance or prevented assessee from filing the appeal within the period of limitation. Accordingly, having considered the reasons given in the application for condonation of delay, we are not satisfied that the assessee was having a reasonable cause for such inordinate delay in filing the present appeal. Hence we decline to condone the delay in filing the present appeal and consequently the appeal of the assessee is not maintainable being barred by limitation. Since appeal is held to be not maintainable therefore, we do not propose to go into merits of the appeal.

7. In the result, the appeal of the assessee for A.Y.2009-10 is dismissed being barred by limitation.

Order pronounced in the open court on 21.07.2023.

**Sd/-**

**(B.M. BIYANI)**  
Accountant Member

**Indore, 21.07.2023**

**Patel/Sr. PS**

**Sd/-**

**(VIJAY PAL RAO)**  
Judicial Member

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

*By order*

*Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore*