

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-PATNA 'e-COURT', KOLKATA
[Virtual Court Hearing]**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 469/PAT/2022
Assessment Year: 2017-2018**

***Kumari Ekita,.....Appellant
Radhika Niwas, RBSS Road,
Near Dr. Manoj Jha, Bhikhanpur,
Bhagalur-812001, Bihar
[PAN:AAOPE2924K]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-1, Bhagalpur
National Faceless Appeal Centre,
Delhi***

Appearances by:

Shri A.K. Rastogi, Sr. Advocate, appeared on behalf of the assessee

Shri Rupesh Agrawal, Addl. CIT, Sr. D.R., appeared on behalf of the Revenue

Date of concluding the hearing : August 23, 2023

Date of pronouncing the order : August 24, 2023

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi dated 23rd December, 2021 passed for Assessment Year 2017-18.

2. The Registry has pointed out that the appeal is time barred and in order to explain the delay, the assessee has filed an application for condonation of delay. It has been pleaded in the application that the impugned order of the Id. CIT(Appeals) was uploaded on the Portal on 23.12.2021, i.e. the day when it was passed. The Hon'ble Supreme Court has extended the period of limitation for challenging any order before the appellate forums during COVID period. Thus on the strength of Hon'ble Supreme Court's order, it was contended that as far as the delay upto the end of June, 2022 is concerned, it is to be treated within limitation. However, further delay from June 2022 upto the filing of appeal in the Tribunal on 08.08.2022, in order to explain the delay of this period, the assessee contended that she was on Maternity Leave and, therefore, not in a position to handle her day-to-day affairs, She is a Doctor, Senior Resident (Surgery Department, Jawarlal Nehru Hospital, Bhagalpur).

3. On the other hand, ld. D.R. contended that she could assign the job of filing appeal with her Tax Consultant and should be more diligent.

4. On due consideration of the facts and circumstances, we are satisfied that the assessee was prohibited by reasonable cause for not submitting the appeal well in time. Therefore, we condone the delay in filing the appeal and proceed to dispose of the appeal on merit.

5. With the assistance of ld. Representatives, we have gone through the record carefully. A perusal of the impugned order would reveal that the appeal of the assessee was dismissed by the ld. CIT(Appeals) for want of prosecution. Sub-section (6) of section 250 contemplates that ld. 1st Appellate Authority would formulate the point in dispute and thereafter record reasons in support of her conclusion on those points, but here the ld. CIT(Appeals) failed to call for the complete record from the ld. Assessing Officer and perused it. He simply dismissed the appeal for want of prosecution, which is not in coherence with the procedure contemplated in sub-section (6) of section 250. We set aside the order of ld. CIT(Appeals) and restore the matter to the file of ld. CIT(Appeals) for re-adjudication on merit.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 24.08.2023.

**Sd/-
(Rajesh Kumar)
Accountant Member**

**Sd/-
(Rajpal Yadav)
Vice-President**

Kolkata, the 24th day of August, 2023

- Copies to :*(1) *Kumari Ekita,
Radhika Niwas, RBSS Road,
Near Dr. Manoj Jha, Bhikhanpur,
Bhagalur-812001, Bihar*
- (2) *Income Tax Officer,
Ward-1, Bhagalpur
National Faceless Appeal Centre, Delhi*
- (3) *Commissioner of Income Tax (Appeals),
National Faceless Appeal Centre, Delhi,*
- (4) *Commissioner of Income Tax- ,*
- (5) *The Departmental Representative*
- (6) *Guard File*

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.