

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E': NEW DELHI
BEFORE,
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.198/Del/2023
(ASSESSMENT YEAR 2017-18)

Smt. Nidhi Agarwal 96, Bari Mandi Hapur/Ghaziabad Uttar Pradesh PAN-AFEPA 7294P (Appellant)	Vs.	PCIT Ghaziabad (Respondent)
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Appellant by	Dr. Rakesh Gupta, Adv. Mr. Somil Agarwal, Adv. and Mr. Deepesh Garg, Adv.
Respondent by	Mr. Sarita Kumari, CIT-DR

Date of Hearing	25/05/2023
Date of Pronouncement	22/08/2023

ORDER

PER M. BALAGANESH AM:

This appeal of the Assessee arises out of the order of the Learned Principal Commissioner of Income Tax, Ghaziabad, [hereinafter referred to as 'Ld. PCIT'] in DIN & Order No. ITBA/REV/F/REV5/2021-22/1041072838(1), dated 19/03/2022 against the order passed by Income Tax Officer, Ward-2(3)(4),

Hapur (hereinafter referred to as the 'Ld. AO') u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 29/12/2019.

2. At the outset, we find that there is a delay in filing of appeal by the assessee by 257 days. The assessee had filed a condonation petition before us stating that the father of Chartered Accountant (CA) looking after the income tax affairs of assessee had expired on 14.2.2022 and the first show cause notice was issued by the ld. PCIT on 07.03.2022. Because of the aforesaid death, the CA could not participate in revision proceedings before the ld. PCIT properly. The order u/s 263 of the Act was passed by the ld. PCIT on 19.03.2022 and thereafter the appeal was filed before this tribunal on 30.01.2023. The ld. AR before us placed reliance on the decision of Hon'ble Supreme Court in the case of Collector, Land Acquisition vs MST, Katiji & Ors reported in 167 ITR 471 (SC) and pleaded that in the interest of substantial justice, the delay should be condoned. Per Contra, the ld. DR vehemently opposed the condonation of delay.

3. For the sake of convenience, the reason stated by the assessee in her condonation petition is reproduced hereunder:-

“1. That return of income was filed by the assessee on 30-11-2017 declaring income of Rs 9,60,350/-.

2. That thereafter case was selected for scrutiny through CASS and the statutory notices were issued. The assessment order was passed u/s 143(3) on 29-12-2019 accepting the returned income by the assessee.

3. That thereafter proceedings u/s 263 have been initiated vide show cause notice u/s 263 dated 07-03-2022.

*4. That in the meanwhile assessee counsel’s father Sh.Suresh Chand Goel has expired on 14.02.2022 therefore my counsel Sh. Jitender Goel, Chartered Accountant could not devote time on the said proceedings u/s 263 as he was in the state of mourning. Copy of Death Certificate of Sh. Suresh Chand Goel is enclosed as **Annexure -1**.*

*5. That assessee came to know about the passing of order u/s 263 dated 19-03-2022 when notice u/s 142(1) dated 10-01-2023 was issued by Income Tax Department in pursuance to 263 order for conducting the assessment proceedings. Copy of notice u/s 142(1) dated 10-01-2023 is enclosed as **Annexure-2**.*

6. That thereafter immediately without wasting further time, assessee contacted her counsel Sh.Jitender Goel, Chartered Accountant to take necessary action with regard to order passed u/s 263 dated 19-03-2022 and accordingly appeal against 263 order dated 19-03-2022 has been filed before Hon’ble Tribunal on 30-01-2023 bearing ITA 198/Del/2023.

*7. That in order to support the above facts and circumstances, affidavit of Assessee is enclosed herewith as **Annexure -3**.*

It is submitted that assessee has a bonafide and reasonable cause for not submitting the appeal before Hon’ble Tribunal against the order passed u/s 263 as mentioned above. It is, therefore, prayed that the above delay in filing the appeal, may kindly be condoned.”

4. The same contents are reproduced in the affidavit filed by the assessee also.

5. We find that there is absolutely no reason adduced by the assessee for the delay in filing of appeal before us. The explanation about the death of father of handling CA has got nothing to do with the delay in filing of appeal before this tribunal, in view of the fact that the death of father happened on 14.2.2022 and the revision proceedings u/s 263 of the Act started on 07.03.2022 and ended by way of an order u/s 263 of the Act on 19.03.2022. This reason may be found reasonable for not producing complete details and explanations before the ld. PCIT in revision proceedings u/s 263 of the Act, but the same would not constitute any reasonable cause for the delay in filing of appeal before us. Absolutely no reason has been adduced by the assessee for the delay from 19.03.2022 to 30.01.2023. Infact this is also after the Covid relaxation period granted by the Hon'ble Supreme Court. The decision relied upon by the ld. AR in 167 ITR 471 (SC) would come to the rescue of the assessee only when some reason has been adduced by the assessee for the delay. Since no reasonable cause has been adduced in the instant case, we do not deem it fit and appropriate to condone the delay in the instant case. Accordingly, the appeal of the assessee is dismissed as unadmitted.

6. Since the appeal is dismissed as unadmitted and dismissed in limine, the other grounds raised by the assessee both on legal as well as on merits of the case need not be gone into and they are hereby left open.

7. In the result, the appeal of the assessee is dismissed in limine.

Order pronounced in the open court on 22nd August, 2023.

Sd/-
(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 22/08/2023

Pk/sps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI