

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”: NEW DELHI**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 1935/DEL/2023
[Assessment Year: 2016-17]

Sandeep, I 1502-03 Jahangir Puri, Delhi-110033.	<u>Vs</u>	Income-tax Officer, Ward-72(5), New Delhi
PAN-CIMPS5510H		
APPELLANT		RESPONDENT
Assessee represented by		Shi Parnav yadav, Ad.
Department represented by		Shri Om Parkash, Sr. DR
Date of hearing		14.09.2023
Date of pronouncement		14.09.2023

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 02.05.2023, pertaining to the assessment year 2016-17. The assessee has raised following grounds of appeal:

- “1. *On the facts and circumstances of the case and: in law, the order passed by the assessing officer is bad-in-law and without jurisdiction and CIT (A) erred in not holding:*
2. *On the facts and circumstances of the case and in law, the CIT(A) erred in not condoning the delay in filing of appeal*
3. *On the facts and circumstances of the case and in law, the order passed by CIT (A) is against the principles of natural justice*

4. *On the facts and circumstances of the case and in law, the CIT (A) erred in not' adjudicating the grounds of appeal on merit*

5. *On the facts and circumstances of the case and in law, CIT (A) erred in confirming the addition of Rs. 12,00,000/- made by the assessing officer on the account of alleged unexplained money u/s 69A of the Act.”*

2. Learned counsel for the assessee at the outset submitted that the learned CIT(A) erred in not condoning the delay in filing the appeal and dismissing the assessee's appeal solely on the ground of delay in filing the appeal, without going into the merits of the case. Learned counsel for the assessee placed reliance on the ratio of decision of Hon'ble Supreme Court in the case of Collector, Land Acquisition, Anantnag & Anr. Vs. Mst. Katiji & Ors. 167 ITR 471 (SC) and submitted that the assessee was prevented by sufficient cause in not filing the appeal before the CIT(A) within stipulated time. He prayed that the delay in filing the appeal may be condoned and the matter may be restored to the file of learned CIT(A) to decide the appeal on merits.

3. On the other hand, learned DR opposed the submissions and relied on the order of learned CIT(A).

4. I have heard rival submissions and perused the material available on record. The learned CIT(A) dismissed the assessee's appeal, inter alia, observing as under:

“In the result, the present appeal fails since the delay in filing of appeal. Accordingly, the appeal of the assessee is treated as dismissed u/s 250 r.w.s. 251 of the Act without considering the merits of the appeal filed.”

4.1 A perusal of the order of learned CIT(A) reveals that he has dismissed the assessee's appeal in limine for delay in filing the appeal without going into the merits of the case. Therefore, in order to to subserve the ends of justice, in the light of the decision of Hon'ble Supreme Court in the case of Collector, Land Acquisition, Anantnag & Anr. Vs. Mst. Katiji & Ors. (supra), I condone the delay in filing the appeal before the learned CIT(Appeals) and restore the matter to the file of learned CIT(A) with direction to decide the appeal on merits after providing reasonable opportunity to the assessee of being heard and to produce documentary evidence, if any, in support of his case. Appeal of the assessee stands allowed for statistical purposes.

Order pronounced in open court on 14th September, 2023.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI