

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'B', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No.1771/Del/2022  
Assessment Year: 2018-19

<b>Dynamix India Drill Con. Co. G-4, 208/209, Sector- 16, Rohini, New Delhi PAN No.AADF05426B</b>	<b>Vs.</b>	<b>Assessing Officer Circle – 62 (1) Income Tax Civic Centre, Minto Road, Delhi</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	None
Respondent by	Sh. Sh. Vivek Upadhyay, Sr. DR

Date of hearing:	02/11/2023
Date of Pronouncement:	02/11/2023

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal by the assessee is preferred against the order dated 26.07.2022 by NFAC, Delhi pertaining to A.Y. 2018-19.

2. The grievance of the assessee read as under :-

*1. On the facts & in the circumstances of the case and in law, the CIT(A) erred in not condoning the delay in filing of appeal disregarding the extension order granted by the Hon'ble Courts for extension of the time limit as well as inhumanly turning a blind eye towards the genuine medical grounds of the CA/AR of the appellant.*

*2. On the facts & in the circumstances of the case and in law, the CIT(A) erred in not disposing off the appeal on merits, when all details necessary for the said purpose on record.*

*3. On the facts & in the circumstances of the case and in law, the CIT(A) erred in not adjudicating and by implication, not directing deletion of disallowance as made by the learned Assessing Officer in respect of employees' contribution to PF / ESI, invoking provisions of section 36(1)(va) of the Act.*

3. A perusal of the order of the NFAC show that the appeal of the assessee was filed beyond the limitation period before the CIT(A) and the delay was not condoned. We find from the form No.35 the assessee has specifically mentioned that both the kidneys of the authorized representative stopped functioning and because of the renal failure the appeal could not be filed on time yet the NFAC did not accept this as a reasonable and sufficient cause and dismissed the appeal.

4. We are of the considered view that the delay should have been condoned and the appeal should been decided on merits of the case, therefore, in the interest of justice and fair play we restore the appeal to the files of the CIT(A)/NFAC. The CIT(A) is directed to condone the delay and decide the appeal on merits of the case after affording a reasonable and sufficient opportunity of being heard to the assessee.

7. Order pronounced in the open court in the presence of both the parties on 02.11.2023.

Sd/-  
**(ASTHA CHANDRA)**  
**JUDICIAL MEMBER**

\*NEHA\*

Date:- .11.2023

Copy forwarded to:

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

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI