

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

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

ITA No.2701/Del/2019  
Assessment Year: 2011-12

<b>Rahul Rai</b> <b>C/o RRA TaxIndia, D -28,</b> <b>South Extension, Part-1,</b> <b>New Delhi</b> <b>PAN No.AGLPR9952R</b>	<b>Vs.</b>	<b>Pr. CIT</b> <b>Karnal</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Dr. Rakesh Gupta, Advocate Sh. Somil Agarwal, Advocate
Respondent by	Sh. Vivek Vardhan, Sr DR

Date of hearing:	07/11/2023
Date of Pronouncement:	10/11/2023

**ORDER**

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

This appeal by the assessee is preferred against the order of the Pr.CIT, Karnal dated 30.12.2015 framed u/s. 263 of the Act.

2. The sum and substance of the grievance of the assessee is that the Pr.CIT, Karnal erred in assuming jurisdiction u/s.263 of the Act and further erred in treating the assessment order dated 17.10.2013 as erroneous and pre judicial to the interest of the revenue.

3. The appeal is time barred by 1109 days.

4. In the application for condonation of delay assessee has stated that the appeal against the order passed pursuant to the order u/s. 263 of the Act was filed and the assessee was advised that since the grievance emanates from the order u/s. 263, therefore, the assessee should have filed an appeal against the order u/s. 263 of the Act before the Tribunal.

5. We do not find any merit in this claim of the assessee. The order of the Pr. CIT is dated 30.12.2015 pursuant to which proceedings to reframe the assessment was started by the issue of notice u/s.143(3) of the Act on 13.01.2016. On that date the assessee was well aware with the order framed u/s. 263 of the Act yet he chose to file the appeal on 28.03.2019 when the order pursuant to the directions u/s.263 of the Act was framed on 25.11.2016. This shows that the assessee awaited for the outcome of the assessment order and after the assessment order was not in favour of the assessee then he decided to file the appeal against the order u/s.263 of the Act. This shows the malafide intention of the assessee and since the hands of the assessee are not clean the delay in filing the appeal is not condoned.

6. In the result, the appeal of the assessee is dismissed.

7. Before closing the assessee has relied upon certain judicial decisions which we find are not relevant on the peculiar facts of the case in hand.

**Order pronounced in the open court on 10.11.2023.**

**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