

**IN THE INCOME TAX APPELLATE TRIBUNAL “ SMC” BENCH, MUMBAI**

**BEFORE SHRI BR BASKARAN, AM AND  
SHRI SANDEEP SINGH KARHAIL, JM**

ITA No.3045/Mum/2023  
(Assessment Year:2017-18)

Himmatlal K. Jain Shop No.3, Jai Narayan Niwas, Off. Aarey Road, Goregaon East, Mumbai – 400 063	Vs.	Principal Commissioner of Income Tax – 17, Room No. 120, 1 <sup>st</sup> Floor, Kautilya Bhavan, C-41 to C-43, G Block, Bandra Kurla Complex, Bandra East, Mumbai – 400 051
PAN/GIR No.AAAPJ 4427 A		
(Assessee)	:	(Respondent)

<b>Assessee by</b>	:	Shri PrakashJhunJhunwala
<b>Respondent by</b>	:	Shri Nagnath B. Padale

<b>Date of Hearing</b>	:	18.12.2023
<b>Date of Pronouncement</b>	:	18.12 .2023

**ORDER**

**Per BR BASKARAN, AM :**

The assessee has filed an appeal challenging the Revision Order dated 22.3.2022 passed by the learned Principal Commissioner of Income Tax-17, Mumbai ( ‘Ld. PCIT’ for short) for Assessment Year (‘A.Y.’ for short) 2017-18, u/s 263 of the Income Tax Act, 1961 (‘the Act’). The assessee is challenging the validity of the revision order passed by the Ld. PCIT.

2. The appeal is time barred by 465 days. The assessee has moved a petition requesting the Bench to condone the delay. The assessee has stated in the petition that he encountered marital disputes with his wife and hence was extremely disturbed. Subsequently due to covid pandemic, he incurred business losses. It is further stated that

he was diagnosed with heart problems and was advised complete rest for substantial period of time. It is also submitted that his regular chartered accountant did not advise him for filing appeal against the revision order passed u/s 263 of the Act. It is submitted that he could file the present appeal, after he engaged a new chartered accountant. Accordingly, it is submitted that there was no willful attempt in filing the appeal belatedly. Accordingly, it is prayed that the delay may be condoned.

3. We heard the Learned Departmental Representative ('Ld. DR' in short) on this preliminary issue. Having regard to the submissions made by the assessee, we are of the view that there was reasonable cause for the assessee in filing the appeal belatedly against the revision order passed u/s 263 of the Act. Accordingly, we condone the delay and admit the appeal for hearing.

4. The Ld. AR submitted that the Ld. PCIT has issued notice u/s 263 of the Act on 16.3.2022 to the email ID of the assessee fixing the date of hearing on 21.3.2022. Since the assessee did not appear before the PCIT on the date, the Ld. PCIT passed an order immediately on 22.3.2022. The Ld A.R submitted that due to various problems faced by the assessee, he could not check the e-mail. Accordingly, the Ld. AR submitted that the impugned revision order has been passed without hearing the assessee. The Ld. AR submitted that the Ld. PCIT has initiated the revision proceedings only for the reason that the assessee has deposited cash during demonetization period into the bank account. The Ld. AR submitted that the assessee has deposited the above money into his bank account out of his sale proceeds only. He further submitted that the Assessing Officer has fully examined the issue and hence the Ld. PCIT was not justified in initiating the revision proceedings.

5. We heard the Ld. DR and perused the record. We notice that the impugned revision order has been passed by the Ld. PCIT ex-parte, without hearing the assessee. Further, as noticed earlier, that the Ld. PCIT has passed the order within 6 days of initiation of proceedings. Accordingly, we are of the view that there was violation of principles of natural justice and in this view of the matter, we are of the opinion that the assessee should be provided with one more opportunity to present his case properly before the Ld. PCIT. Accordingly, we set aside the impugned revision order and restore all the issues of the file of PCIT for passing the order afresh, after affording adequate opportunity of being heard to the assessee. We also direct the assessee to fully co-operate with the Ld. PCIT for expeditious disposal of the matter.

6. In the result, the appeal filed by the assessee is treated as allowed for statistical purpose.

*Order pronounced in the open court on 18.12.2023.*

Sd/-  
(**SANDEEP SINGH KARHAIL**)  
Judicial Member

Sd/-  
(**BR BASKARAN**)  
Accountant Member

Mumbai; Dated : 18.12.2023

Mini, Sr. PS

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai