

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE BENCH, INDORE**

**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER**  
**AND**  
**SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

**ITA No.330/Ind/2023**  
**(Assessment Year: 2009-10)**

Mewa Lal Singh LIG-06, A-Sector Sonagiri Bhopal	vs.	ITO 2(5) Bhopal
(Appellant / Assessee)		(Respondent/ Revenue)
<b>PAN: ANGPS 1966A</b>		
Assessee by	Ms. Shreya Jain, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	15.01.2024	
Date of Pronouncement	16.01.2024	

**ORDER**

**Per Vijay Pal Rao, JM:**

This appeal by the Assessee is directed against the order dated 17.01.2023 of Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC) for Assessment Year 2009-10.

3. There is a delay of 166 days in filing the present appeal. The assessee has filed an application along with affidavit of the assessee. The Ld. AR of the assessee for condonation of delay has submitted that though in the form no.36 the assessee has mistakenly given the date of communication on 17.01.2023

however, the assessee did not receive the impugned order as the same might have been sent to the E-mail ID which is available in the system of the department and not to the E-mail ID of the assessee. Ld. AR has further submitted that the impugned order has been passed by the CIT(A) ex-parte due to non-representation on behalf of the assessee to the various notices issued by the CIT(A). She has pointed out that the alleged notices of the CIT(A) were also sent to the E-mail ID may be registered with the department of Tax consultant who has filed return of income and not to the E-Mail ID of the assessee. Thus, Ld. AR has submitted that due to the communication gap the assessee could not receive notices as well as the impugned order of the CIT(A). On 12<sup>th</sup> August 2023 the ITO called the assessee for payment of demand and to serve notice for penalty and only then the assessee came to know about the impugned order and immediately the assessee requested the AO to provide the copy of the said order. Thereafter the assessee has filed the present appeal without any further delay. Thus, Ld. AR of the assessee has submitted that the delay in filing the appeal is neither intentional nor willful but due to the reasons explained by the assessee beyond the control of the assessee and therefore, she has pleaded that the delay may be condoned and appeal of the assessee be decided on merits.

4. On the other hand Ld. DR has submitted that the impugned order as well as notices was sent to the E-mail ID provided by the assessee however, he has not seriously objected to the condonation of delay in filing the appeal.

5. Having considered the reason explained by the assessee for delay in filing the appeal we find that the ex-parte impugned order as well as notice issued by the CIT(A) were sent to the E-mail ID : [kichlu\\_rishi@yahoo.co.in](mailto:kichlu_rishi@yahoo.co.in) The assessee has now given the assessee's own E-mail ID in form no.36 and also claimed to have updated the E-mail ID in the system of the department. Accordingly, we are satisfied that the assessee was having reasonable cause for delay in filing the present appeal and hence the delay of 166 days in filing the appeal is condoned.

6. The assessee has raised following grounds of appeal:

*"1. That the Id A.O. erred in making additions of Rs. 5,00,000/-, by just mentioning that the assessee has not furnished any documents to substantiate the source of Investment in Mutual funds, whereas the investment was made out of retirement benefits which assessee had received earlier on retirement from BHEL.*

*2. On the basis of above mentioned facts and circumstances that the order of A.O. is bad in law and liable to be quashed.*

*3. That the A.O. has wrongly levied interest under section 234A of Rs. 49,855/- and 234B Rs. 52,118 and 234C Rs. 2097/- that is totally unsustainable in law.*

*4. That the initiation of penalties under section 271(1)(b) and (c) also unsustainable in law."*

7. Ld. AR of the assessee has submitted that the AO has made an addition of Rs. 5 lakhs on account of unexplained investment in mutual funds whereas the assessee has retired from BHEL, Bhopal on 23.06.2007 and received retirement benefits of Rs.13,33,790/-. However, due to non-furnishing of the relevant details before the AO as well as the CIT(A) the addition was made by the AO and

sustained by the CIT(A). Ld. AR has submitted that the impugned order may be set aside and matter may be remanded to the record of the AO for fresh adjudication.

8. On the other hand, Ld. DR has relied upon the orders of the authorities below.

9. We have considered rival submissions as well as relevant material on record. The AO has made addition on account of unexplained investment of Rs.5 lakh in mutual funds as the assessee has not furnished details or evidence to explain source of the said investment. The AO has passed ex-parte order u/s 144 of the Act. On appeal the CIT(A) has dismissed the appeal of the assessee in para 2 & 3 as under:

*“2. Aggrieved with the assessment order issued by the AO, the appellant has filed present appeal on 17.01.2017. In the course of appellate proceedings, it is seen that the appellant was issued and served various notices u/s 250 of the Act from this office to present his contentions and any documents supporting them. The said notices were issued right from 2020 through till 2023 and all of them (5 in number) remain un-complied with. The National Faceless Appeal Centre (NFSC) also in November, 2022 enabled communication window to facilitate filing of submissions by the appellant but to no avail.*

*3. In view of the above, it is clear that the appellant is not interested in prosecuting the present appeal because there has been no response as yet. In view of the above, the appeal stands dismissed.”*

10. Thus, it is clear that the despite five notices issued to the assessee there was no response on behalf of the assessee and accordingly the appeal of the assessee was dismissed by CIT(A). Ld. AR of the assessee has already explained and pointed out that the notices were issued to the E-mail ID of tax consultant already

registered with department and not of the assessee and therefore, the assessee did not receive the alleged notices. Therefore, due to non-furnishing of the relevant details and evidence to explain the source of the investment of Rs.5 lakhs made in mutual funds the AO as well as the CIT(A) has made this addition. The assessee has now updated the E-mail ID and also undertaken to attend the proceedings before authorities below. Hence, in the facts and circumstances of the case and in the interest of justice we set aside the impugned order and matter is remanded to the record of the AO for fresh adjudication after proper verification and examination of the details and record to be filed by the assessee to explain the source of the investment made in the mutual funds.

11. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 16 .01.2024.

**Sd/-**  
**(B.M. BIYANI)**  
Accountant Member

**Sd/-**  
**(VIJAY PAL RAO)**  
Judicial Member

**Indore, \_ 16.01.2024**

**Patel/Sr. PS**

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

*By order*

*Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore*