

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "E": NEW DELHI**

**BEFORE SHRI G.S. PANNU, VICE PRESIDENT  
AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No. 527/Del/2024  
Asstt. Yr: 2009-10**

**Along with**

**S.A. No. 58/Del/2024  
( In ITA No. 527/DEL/2024)  
Assessment Year: 2009-10**

**(Through Hybrid hearing)**

|   |  |                                |
|---|--|--------------------------------|
| Manish Chaudhary,<br>C-39, Inderpuri, New Delhi-110012<br><br>PAN- AEGPC4644A | <u>Vs</u>  | ITO, Ward-59(2),<br>New Delhi. |
| <b>APPLICANT</b>  |  | <b>RESPONDENT</b>              |
| <b>Assessee represented by</b>  | Ms. Prem Lata Bansal, Sr. Adv. &<br>Mr. Shivang Bansal, Adv. |                                |
| <b>Department represented by</b>  | Shri Vivek Kumar Upadhyay, Sr. DR                            |                                |
| <b>Date of hearing</b>  | 16.02.2024   |                                |
| <b>Date of pronouncement</b>  | 16.02.2024   |                                |

**ORDER**

**PER ANUBHAV SHARMA, JM:**

Heard and perused the record.

2. The stay application in hand is filed for stay of the demand arising out of the assessment order passed u/s 144 of the Income-tax Act, 1961 (hereinafter referred to as the “Act”).

3. During the course of hearing it transpired that learned CIT(A), NFAC, has dismissed the appeal filed by the assessee on account of alleged delay in filing the appeal and observing that assessee has not responded to the notice nor has filed application for condonation of the delay. Thus, we are of the considered view that the appeal can be disposed of on merits instead of considering the stay application only. Learned Authorized Representative also consented to the same.

4. On appreciating the grounds raised and the order of learned CIT(A) dated 12.01.2024 it comes up that hearing notices were issued by the learned CIT(A), but there was no response from the assessee and further learned CIT(A) observed that there is a delay of 1878 days in filing the appeal, but no application for condonation is filed.

5. Learned AR has submitted that in fact there was no delay in filing the appeal as assessment order was not served at all and when the bank account of the assessee was attached, the assessee came to know of the assessment order. Thereafter, on 17.03.2017 the AO was requested to provide certified copy of the

assessment order and thereupon the appeal was filed before learned CIT(A) on 16.04.2017.

6. On the basis of aforesaid we are of the considered view that assessee is supposed to explain all these facts to learned CIT(A) and seek condonation of the delay, if any.

7. In the light of aforesaid, the appeal is allowed for statistical purposes and the stay application is dismissed, being infructuous. The issue on merits is restored to the file of learned CIT(A) to give an opportunity to the assessee to file application for condonation of delay supported with affidavit and after determination of the same as per law the issue will be decided on merits afresh.

Order pronounced in open court on 16.02.2024.

**Sd/-**  
**(G.S. PANNU)**  
**VICE PRESIDENT**  
**\*MP\***

Copy forwarded to:

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

**Sd/-**  
**(ANUBHAV SHARMA)**  
**JUDICIAL MEMBER**

**ASSISTANT REGISTRAR**  
**ITAT, NEW DELHI**

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|---|------------|
| Draft dictated                            | 16.02.2024 |
| Draft placed before author                | 16.02.2024 |
| Approved Draft comes to the Sr. PS/PS     |            |
| Order signed and pronounced on            |            |
| File comes to P.S.                        |            |
| File sent to the Bench Clerk              |            |
| Date on which file goes to the AR         |            |
| Date on which file goes to the Head Clerk |            |
| Date of dispatch of Order                 |            |
| Date of uploading on the website          |            |