

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE "SMC" BENCH : PUNE [VIRTUAL HEARING]

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.902/PUN./2023 [E-APPEAL]
Assessment Year 2012-2013

Shri Mohammed Nasir Mohammed Yusuf Patel, H.No.153, Taloja, Panvel. District-Raigad. PIN 410208 Maharashtra. PAN BTQPP8705F (Appellant)	vs.	The Income Tax Officer, Ward-5, Plot No.2-2A, Sector-17, Aaykar Bhawan, Trifred Tower, Khanda Colony, Panvel, District Raigad. Maharashtra. PIN 410 206 (Respondent)
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For Assessee :	-None-
For Revenue :	Shri Basavaraj Hiremath

Date of Hearing :	06.03.2024
Date of Pronouncement :	06.03.2024

ORDER

PER SATBEER SINGH GODARA, J.M. :

This assessee's appeal for assessment year 2012-13, arises against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2022-23/1050134647(1), dated 26.02.2023, involving proceedings u/s.143(3) r.w.s.147 of the Income Tax Act, 1961 (in short "the Act").

Case called twice. None appears at assessee's behest. He is accordingly proceeded ex-parte.

2. Learned DR vehemently argued during the course of hearing that the NFAC herein has rightly refused to condone 607 days delay in filing of the assessee's appeal filed on 18.09.2021 against the Assessing Officer's assessment order dated 08.12.2019.

His case is that the assessee had not pleaded and proved any reasonable cause indicating circumstances beyond his control in the corresponding condonation averments placed before the NFAC. He could hardly rebut the clinching fact that the learned NFAC has included Covid-2019 pandemic outbreak period between 15.03.2020 to 28.02.2022, the date of the filing of the lower appeal i.e., 18.09.2021 which has already been ordered to be excluded as per hon'ble apex court's directions in *Cognizance for Extension of Limitation, In re 438 ITR 296 (SC)* read with judgment in *Cognizance for Extension of Limitation, In re 432 ITR 206 (SC)* dated 08-03-2021 and 421 ITR 314, for all intents and purposes under limitation law. Faced with the situation, the foregoing delay of 607 days in filing of the lower appeal at the assessee's behest before NFAC is condoned. The assessee's first appeal before the NFAC is directed to be taken afresh for appropriate adjudication on all the issues raised before it as per sec.250(6) of the Act, preferably within three effective opportunities of hearing, subject to the rider that it shall be the taxpayer's onus and responsibility only to file and prove all the relevant facts in consequential proceedings. Ordered accordingly.

3. Delay of 110 days herein is condoned in light of Collector, Land Acquisition vs., MST Katiji [1987] 167 ITR 471 (SC) having settled the law long back that all such technical aspects must make a way for the cause of substantial justice.

4. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open Court on 06.03.2024.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 06th March, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The NFAC, Delhi.
4.	The Pr. CIT, Pune concerned
5.	D.R. ITAT, "SMC" Bench, Pune.
6.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.