

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY,
JUDICIAL MEMBER AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.1150/Bang/2023
Assessment Year : 2021-22

Mrs. Parvati Bandi, Alampur Peth, Ward No.07, Ilkal, Karnataka – 587 125. PAN : CBNPP 9384 G	Vs.	The Income Tax Officer, Ward-1, Koppal.
APPELLANT		RESPONDENT

Assessee by	:	Shri Sathish Patil, C.A
Revenue by	:	Shri Parithivel V, JCIT (DR)

Date of hearing	:	28.02.2024
Date of Pronouncement	:	28 .02.2024

ORDER

PER BENCH :

This is an appeal filed by the assessee against the order passed by the NFAC, New Delhi dated 31/10/2023 in DIN No. ITBA/NFAC/S/250/2023-24/1057537631(1) for

the assessment year 2021-22 challenging the order passed by the CIT(A).

2. The brief facts of the case are that the assessee filed return of income on 30/03/2022 declaring a total income at Rs.91,30,240/-. The case was selected for complete scrutiny. The AO issued various notices on different dates. The assessee filed submission and written synopsis which was considered by the AO and AO made addition u/s 69 of the Act for unexplained investment u/s 69 of Rs.56,90,000/-, unexplained cash credit u/s 68 of the Act of Rs.27,50,000/- and unexplained time deposit u/s 68 of the Act of Rs.46,00,000/-. Accordingly, the total income determined at Rs.2,21,70,240/- and passed order on 21/12/2022.

3. Aggrieved by the above order, the assessee filed appeal before the CIT(A) on 07/03/2023 with a delay of 46 days. For which, the assessee stated the reason and the CIT(A) has also noted in para 5.3 in his order and did not accept, which is as under:-

“A perusal of the facts shows that the contention of the appellant that ‘due to upset of health because of sever back ache on account of age factor, and due to ignorance of provisions of Income Tax Act and rules there under, since the main activity of the appellant’s family is agriculture,’ cannot be accepted on face value.

4. The ld.CIT(A) relied on the various judgments. He did not condone the delay of appeal filed of 46 days. The ld.CIT(A) issued various notices on different dates. The assessee did not comply with the notices issued by the CIT(A). Accordingly, the appeal was dismissed.

5. Aggrieved from the above order, the assessee filed appeal before the ITAT.

6. The ld.AR submitted that the assessee derived income from the agricultural activities and there was a health issue, which was brought into the notice of the CIT(A). In spite of that the CIT(A) did not condone the delay and dismissed the appeal. The ld. AR of the assessee undertook that if a chance is given to the assessee, he will comply with all the notices issued by the revenue authorities and will also file necessary documents to substantiate her case.

7. On the other hand, the ld.DR relied on the order of the lower authorities and he submitted that during the course of assessment proceedings, the assessee also did not comply properly of the notices issued by the AO and also by the CIT(A). The assessee did not file the appeal within the due date as prescribed under Income-tax Act.

He, therefore, objected for sending back the issue to the file of the lower authorities.

8. Considering the rival submissions, we note that the assessment order was passed on 21/12/2022 and which was served to the assessee. The assessee was supposed to file the appeal before the CIT(A) within the due date. However, the assessee did not file the appeal within the due date. The reason for delay has been explained stating that there was health issue, which is supported by the Affidavit. However, the CIT(A) has not condone the delay and the ld.AR of the assessee submitted that the notices issued by the authorities were not served to the assessee. Considering the request made by the ld.AR of the assessee and in the interest of justice, we are remitting the issue back to the file of the CIT(Appeals) for fresh consideration. The CIT(A) is directed to give reasonable opportunity of being heard to the assessee and decide the issue as per law. The assessee is directed to produce the necessary documents for substantiating its case and to avoid unnecessary adjournments for early disposal of the case. It is proposed to pay cost of Rs.10,000/- for not complying the notices issued by the authorities below and it was accepted by the ld. AR of the assessee, therefore the assessee is directed to produce the proof of payment of cost

of Rs.10,000/- to CIT(A) and update the email, mobile No. and address for communication.

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

Order pronounced on the 28th day of February, 2024, through virtual hearing.

Sd/-
(NARENDER KUMAR CHOUDHRY)
Judicial Member

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Bangalore,
Dated : 28.02.2024.
Vms
Copyto:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore