

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"B" BENCH, BENGALURU BENCH  
BENGALURU**

**BEFORE SHRI N. K. CHOUDHRY, JM &  
SHRI LAXMI PRASAD SAHU, AM**

I.T.A. No.209/BANG/2024  
(Assessment Year: 2014-15)

**M/s. Tirumala Teleworld**  
GF-1, Aditya Annex,  
Coeun Road,  
Hubballi – 580 020

**Income Tax Officer,  
Ward - 3 (4)**  
Vs. Bengaluru

PAN No. **AAFFT9856J**

**(Appellant) : (Respondent)**

**Appellant/Assessee by** : Shri Pranav Krishna, Advocate  
**Respondent/Department by** : Shri Ganesh R. Ghale, Standing Counsel

**Date of Hearing** : 21.03.2024  
**Date of Pronouncement** : 21.03.2024

ORDER

**Per N. K. Choudhry, JM:**

This appeal has been preferred by the Assessee against the order dated 31.05.2023, impugned herein, passed by National Faceless Appeal Centre (NFAC), Delhi/Ld. Commissioner of Income Tax (Appeals) [in short 'Ld. Commissioner'] under section 250 of the Income Tax Act 1961 (in short 'the Act') for the Assessment Year (in short 'AY') 2014-15.

2. At the outset, we observe that there is a delay of 191 days in filing the instant appeal, for which the Assessee has submitted as under:

*“3. I submit that the Impugned Order likely to be received on unassessed email on 31-5-2023. That I am least acquainted with tax matters and books of accounts and totally depend upon account clerk. The regular books of accounts were maintained and was subjected to tax audit under section 44AB. That an appeal to the Hon'ble Appellate Tribunal is required to be filed within 60 days from the date of receipt of Order. However I was unaware of dismissal of the appeal by learned CIT Appeal. The lack of awareness was due to communication of impugned order solely through email. Unfortunately I did not have access to email due to limited use.*

*4. I became aware of the dismissal of First appeal upon receiving the the Aid Sheet under DIN No. ITBA/COM/F/17/2023-24/1058593240(1) dtd 8-12-2023 for demand of Rs. 832,208/- for which I submitted reply stating that an appeal is pending before Hon'ble CIT. Thereafter in response to notice I received call from the office of Income Tax informing that the said appeal is already dismissed by an order dated 31-5-2023 and informed us to access the same from account in e portal. And accordingly after looking into the e portal I able to know about dismissal of first appeal. Subsequently, recognizing the need to take action, the present appeal is filed with application for condonation of delay.*

*5. Under the circumstances mentioned above there is a delay of 185/(1axAD) days from the date of order passed by the Commissioner of Income NFAC which delay is required to be condoned by this Hon'ble Income Tax Appellate Tribunal, Bengaluru. The delay in filing the appeal is due to the bonafide reasons mentioned above and not intentional and was only due to reasons of least acquainted with tax laws matters and un access of email. I submit that if the delay in filing the appeal is not condoned by this Hon'ble Income Tax Appellate Tribunal,*

*Bengaluru the appellant will be put to great loss, hardship and inconvenience. On the other hand if the delay is condoned, the respondent will not be put to any loss or hardship as they can contest the above case on merits.”*

On the contrary, the learned Departmental Representative refuted the claim of the Assessee and submitted that the reason submitted by the Assessee does not seem to be reasonable and plausible and therefore the same is not entertainable and therefore still the delay is to be condoned then the same could be condoned subject to imposition of cost.

We have considered the peculiar facts and circumstances of the case and the contentions raised by the parties qua delay in filing the instant appeal and observe that the reasons shown by the Assessee prima-facie though do not seem to be reasonable, however, there is nothing on record to suggest that the delay in fact has been occurred due to malafide or dishonest intention of the Assessee and any fruitful purpose has been served by delaying the filing of the instant appeal and therefore considering the claim of the Assessee as inadvertent and bonafide, we are inclined to allow the condonation petition, however, for equity and balance, subject to deposit of Rs.5000/- in the account of Revenue Department, which the Assessee has voluntarily agreed. Hence in the aforesaid terms, the delay in filing the instant appeal is condoned.

**3.** Coming to the merits of the case, we observe that in the instant case, during the course of assessment proceedings, huge creditor to the extent of Rs.2,12,42,913/- was noticed in the books of accounts of the Assessee, therefore notices u/s.133(6) of the Act were issued to the various creditors, from whom replies received, which were perused by the Assessing Officer (in short 'AO') who on finding some variation between creditors account and the confirmation received, by issuing a notice dated 23.12.2016 u/s. 142(1) of the Act, asked the Assessee to reconcile the creditors difference and proposed a addition. In response, the Assessee by filed its reply dated 26.12.2016, dis-agreeing with the proposed addition. Though the AO considered the same, however, for not filing any relevant documents qua reconciling the creditors difference by the Assessee, by observing that the Assessee has failed to substantiate the difference in the creditors amount, ultimately treated the amount of Rs.29,13,651/- as un-explained sum credited in the book of accounts of the Assessee, u/s. 68 of the Act and added the same in the total income of the Assessee.

**5.** The Assessee being aggrieved challenged the aforesaid addition before the Id. Commissioner and filed written submissions. The Ld. Commissioner vide letter dated 5.7.2018 called for a remand report on the submissions made by the Assessee. The AO, vide letter dated 15.6.2020 filed a remand report before the Id. Commissioner, which was forwarded to the Assessee for his objections/comments, vide notice dated 20.3.2023. However, there was no compliance from the Assessee therefore the Id. Commissioner by presuming mainly "*that the Assessee does not have*

*any objections/comments to offer on the remand report and also not countered the findings in the remand report and therefore in the absence of sufficient evidence of the details” affirmed the addition of Rs.29,13,651/- against which the Assessee is in appeal before us.*

**5.** We have given thoughtful consideration to the peculiar facts and circumstances of the case and observe that the conduct of the Assessee for not filing relevant documents before the AO and objections/comments on the remand report before the Id. Commissioner, prima facie appears to be unreasonable. However, considering the peculiar facts and circumstances in totality, as the Assessee was asked to file its objections/comments on the remand report dated 15.6.2020, after a gap of 3 years, i.e., on 20.3.2023 and thereafter the impugned order was passed on 31.5.2023. And the issue qua variation between the Assessee’s credit amount and the confirmation received from the creditors, specifically in the absence of relevant submissions/documents, remained to be adjudicated in its true spirit and right perspective and therefore for just decision of the case and substantial justice, we are inclined to remand the instant case to the file of the Id. Commissioner for decision afresh, suffice to say, by affording reasonable opportunities to the Assessee to substantiate its claim.

**6.** We are also inclined to direct the Assessee to file the relevant documents/submissions in support of its claim before the Id. Commissioner and also to co-operate with the appellate proceedings and in case of further default, the Assessee shall not be entitled for any leniency.

Thus, the case is accordingly remanded to the files of Id. Commissioner in the aforesaid terms.

**7.** In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on 21.03.2024 during virtual hearing.

*Sd/-*  
**(Laxmi Prasad Sahu)**  
**Accountant Member**

*Sd/-*  
**(N. K. Choudhry)**  
**Judicial Member**

*Mini, Sr.PS.*

**Copy of the Order forwarded to :**

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

BY ORDER,

(Dy./Asstt.Registrar)  
**ITAT, Bengaluru**