

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE "SMC" BENCH : PUNE [VIRTUAL HEARING]
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

आयकर अपील सं. /ITA No.1257/PUN/2023

निर्धारण वर्ष / Assessment Year : 2009-10

Shivratan Motilalji Rathi HUF, Ground Floor, Shree Krishna Kutir, Durga Mata Road, Opp. Mission Hospital, Jalna – 431 203, Maharashtra PAN : AAEHR5318G	vs.	Income Tax Officer, Jalna
(Appellant)		(Respondent)

For Assessee :	None
For Revenue :	Smt. Neha Deshpande

Date of Hearing :	14.03.2024
Date of Pronouncement :	26.03.2024

ORDER

PER SATBEER SINGH GODARA, J.M. :

This assessee's appeal for assessment year 2009-10, arises against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No.ITBA/NFAC/S/250/2023-24/1056672312(1), dated 29.09.2023, involving proceedings u/s.147 r.w.s.144 of the Income Tax Act, 1961 (in short "the Act").

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

2. It emerges during the course of hearing with the able assistance coming from the Revenue side that the learned NFAC lower appellate order has refused to condone 1943 days delay in filing of the assessee's appeal. The

Revenue could hardly dispute that the assessee's condonation averments had given justifiable reasons beyond its control that on account of differences within the members of the concerned HUF, the case took so long time to be filed in the lower appellate process. This is indeed coupled with the fact that a part of the foregoing period from 19-03-2020 to 28-02-2022 to the date of actual filing therein, i.e., 21-07-2020, has also been included despite the fact that hon'ble apex court directions in Cognizance for Extension of Limitation, In Re 438 ITR 296 (SC) setting the issue at rest qua Covid-19 pandemic outbreak period for all intents and purposes under the limitation law.

3. Be that as it may, their lordships yet another decision in Collector Land Acquisition Vs. MST Katiji (1987) 167 ITR 471 (SC) has also settled the law that all such technical aspects must make a way for the cause of substantial justice. Faced with this situation, the impugned delay of 1943 days before the learned NFAC stands condoned in very terms. The assessee's substantive grounds pleaded in the instant appeal are hereby restored to the NFAC for fresh appropriate adjudication in accordance with law, preferably within three effective opportunities of hearing subject to rider that it shall be the taxpayer's onus only to plead and prove all facts with the relevant evidence(s) in consequential proceedings.

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

Order pronounced in the open Court on 26th March, 2024.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated : 26th March, 2024

Satish

Copy to :

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

//By Order //

//True Copy //

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