

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

BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.63/Bang/2024
Assessment year : 2018-19

Igoor Seva Sahakara Sangha Niyamitha, Igooru – 571 251. Somwarpet Tq. Kodagu. PAN: AAAAI 0136J	Vs.	The Income Tax Officer, Ward, Madikeri.
APPELLANT		RESPONDENT

Appellant by	:	Shri Ravishankar, Advocate
Respondent by	:	Shri V. Parithivel, Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	20.03.2024
Date of Pronouncement	:	10.04.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the order dated 08.11.2023 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC] for the AY 2018-19.

2. At the outset, we note that the appeal is time barred by 4 days. In this regard the assessee submitted that the case was migrated to NFAC and notices were issued to on e-mail id which was not received

by the assessee. When the assessee came to know that the order has been passed by the CIT(Appeals) on 08.11.2023 and the appellate order was received by the assessee presumably on 08.11.2023 and the assessee's CA advised assessee to seek professional advice and later through the present appeal the appeal came to be filed before the Tribunal on 11.01.2024. Considering that 7th & 8th Jan. 2024 were holidays, the due date was 0.01.2024 and there was a delay of 02 days in filing the appeal before the ITAT. In view of the above reasons, relying on the judgment in the case of Collector, Land Acquisition v. Mst. Katiji (1987) 167 ITR 471 (SC), the Id. AR requested for condonation of delay of 2 days.

3. After considering the rival submissions and the explanation of the assessee for the delay, following the judgment in the case of Mst. Katiji (supra), the delay in filing the appeal is condoned.

4. The Id. AR submitted that the CIT(Appeals) has dismissed the appeal on the reason that the appeal is time barred by 338 days without condoning the delay and without going into the merits, whereas it was a COVID period and the assessee received the assessment order on 28.05.2021 and preferred the appeal before the CIT(Appeals) on 31.05.2022. As per the Hon'ble Supreme Court judgment in *Cognizance for Extension of Limitation, In re [2022] 134taxmann.com307 (SC)*, it is held that where limitation would have expired during period between 15-03-2020 till 28-02-2022, notwithstanding actual balance period of limitation remaining, all

persons shall have a limitation period of 90 days from 01-03-2022; in event actual balance period of limitation remaining, with effect from 01-03-2022, is greater than 90 days, that longer period shall apply. This judgment has not been considered by the CIT(Appeals) and considering the same, there is actually a delay of only 02 days in the appeal before the CIT(Appeals) due to the lockdown during the COVID period and preparation of appeal. The Id. AR therefore requested for condonation of 02 days delay in filing appeal before the CIT(Appeals) and to restore the matter to the Assessing Officer for fresh consideration so that the assessee could represent its case properly before the AO.

5. The Id. DR relied on the orders of lower authorities.

6. After considering the rival submissions, we note that considering the judgment of Hon'ble Supreme Court (supra) regarding extension of limitation during the COVID period, the delay before the CIT(Appeals) is only two days and considering the submissions of the assessee in this regard, we condone the delay of two days in filing the appeal before the CIT(Appeals). The appeal is restored to the Assessing Officer for de novo consideration and decision as per law after giving reasonable opportunity of being heard to the assessee. The assessee shall produce its proper e-mail id and communication address to the department and substantiate its case before the AO with necessary evidence and not seek unnecessary adjournment for early disposal of the case.

7. In the result, the appeal by the assessee is allowed for statistical purposes.

Pronounced in the open court on this 10th day of April, 2024.

Sd/-
(GEORGE GEORGE K.)
VICE PRESIDENT

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 10th April, 2024.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.