

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

**BEFORE SHRI GEORGE GEORGE K., VICE PRESIDENT
AND
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER**

ITA No.232/Bang/2024
Assessment Year: 2017-18

Ramesh Bhat Akash Clinic Near Syndicate Bank Kadri Mangalore 575 002 Karnataka PAN NO.ACQPB3983P	Vs.	DCIT CPC Bangalore
ASSESSEE		RESPONDENT

Assessee by	:	Sri Srinivas Kamath, A.R.
Revenue by	:	Shri Ganesh R. Ghale, Standing Counsel for Revenue.

Date of Hearing	:	10.04.2024
Date of Pronouncement	:	10.04.2024

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal by assessee is directed against order of NFAC for the assessment year 2017-18 dated 23.11.2023 passed u/s 250 of the Income Tax Act, 1961 (in short “The Act”). The assessee has raised following grounds of appeal:

- 1. The impugned orders of the authorities below are opposed to the law and facts of the case*
- 2. The impugned orders are against the provisions of law/Act and have been made in violation of the principles of natural justice and equity.*
- 3. On the facts and circumstances of the case the assessing officer erred in taxing salary amounting to Rs.17,47,258.00 as salary which amounts to double taxation.*
- 4. On the facts and circumstances of the case, the CIT(A) erred in not considering the request for condonation of delay f filing appeal before him.*

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5. *On the facts and circumstances of the case, the assessing officer erred in levying interest u/s 234A of Rs.21,460, u/s 234B of Rs.1,28,760 and u/s 234C of Rs.27,094.*
6. *Your appellant craves for leave to add, to delete from or to amend the grounds of appeal.*

2. Facts of the issue are that assessee went in appeal before Id. CIT(A), challenging the addition made while processing return u/s 143(1) of the Act by CPC. There was a delay of 971 days in filing the appeal before NFAC. It was also noted by the NFAC that there was change of incumbent of first appellate authority and the notice was issued to the assessee on 20.10.2023. However, no reply has been filed by the assessee in response to this notice dated 20.10.2023. The NFAC has considered the reply filed by the assessee on earlier occasion and dismissed the appeal of the assessee not condoning the delay of 971 days by observed that the assessee has no good and sufficient reason in filing the appeal belatedly by placing reliance on the judgement in the case of Majji Sinnemma Reddy Sridevi (2021) SSC Online SC 1260 dated 16.12.2021. Against this assessee is in appeal before us.

3. We have heard the rival submissions and perused the materials available on record. At the time of hearing, the Id. A.R. pleaded that assessee has not in receipt of the notice issued by the NFAC on 20.10.2023 and prayed that one more opportunity may be given before the NFAC to present the assessee's case.

4. The Id. D.R. strongly opposed the argument of assessee's counsel and he drew our attention to the findings of NFAC that there was no response from the assessee before it. However, we are of the opinion that it is appropriate to give one more opportunity to the assessee to explain the delay of 971 days in filing the appeal belatedly before NFAC. Accordingly, the issue in dispute is remitted back to the file of NFAC to pass a speaking order on the issues involved herein and decide accordingly.

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

Order pronounced in the open court on 10th Apr, 2024

Sd/-
(George George K.)
Vice President

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 10th Apr, 2024.
VG/SPS

Copy to:

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

By order

Asst. Registrar,
ITAT, Bangalore.