

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE “B” BENCH : PUNE  
[THROUGH VIRTUAL HEARING]

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

I.T.A.No.1416/PUN./2023 [E-APPEAL]  
Assessment Year 2013-2014

Shri Vinayak Tukaram Koli, 225/A/01, Koliwada Taloja Panchnand, PANVEL. Raigad. PIN 410 208. Maharashtra. PAN BRXPK5471Q	vs.	The Income Tax Officer, Ward – 5, Panvel. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Prateek Jha
For Assessee :	Shri Rajesh Gawali

Date of Hearing :	17.04.2024
Date of Pronouncement :	29.04.2024

**ORDER**

**PER SATBEER SINGH GODARA, J.M. :**

This assessee’s appeal for assessment year 2013-14, arises against the National Faceless Appeal Centre [in short the “NFAC”] Delhi’s Din and Order No. ITBA/NFAC/S/250/2023-24/1058226654(1), dated 24.11.2023, involving proceedings u/s.147 r.w.s.144 of the Income Tax Act, 1961 (in short “the Act”).

Heard both the parties. Case file perused.

2. It emerges at the outset with the able assistance coming from both the sides that the learned NFAC has refused to condone 27 days delay in filing of the assessee’s lower appeal as not sufficiently explained with reasonable cause. Learned DR vehemently supported the NFAC’s order that assessee’s Form No.35

had not shown any cogent reason(s) regarding condonation of the impugned delay. The fact however remains that not only the learned NFAC has not given due consideration of various judicial precedents and more particularly, Collector, Land Acquisition vs., MST Katiji [1987] 167 ITR 471 (SC) having settled the law long back that all such technical aspects must make a way for the cause of substantial justice; but also there is no adjudication in the lower appellate proceedings in light of sec.250(6) of the Act requiring framing of points of determination followed by a detailed adjudication thereupon.

3. Faced with this factual position, we deem it appropriate in the larger interest of justice to restore the assessee's instant lower appeal, after condoning the foregoing 27 days delay (supra) back to the learned NFAC for its afresh appropriate adjudication, preferably within three effective opportunities of hearing, subject to the rider that it shall be the taxpayer's onus and responsibility only to file and prove all the relevant facts in consequential proceedings. Ordered accordingly.

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

Order pronounced in the open Court on 29.04.2024.

Sd/-  
[DR. DIPAK P. RIPOTE]  
ACCOUNTANT MEMBER  
Pune, Dated 29<sup>th</sup> April, 2024  
VBP/-

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Copy to

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

//By Order//

//True Copy //

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