

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "F", MUMBAI**

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER AND
MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER**

ITA NO. 4742/MUM/2023 : A.Y : 2014-15

Shine Star
BW 3021/3032, Bharat Diamond
Bourse, Bandra Kurla Complex,
Bandra (E), Mumbai 400 051.
PAN : AABFS2911F (Appellant)

Vs. Asst. Commissioner of Income
Tax - 19(3), Mumbai.
(Respondent)

**Appellant by : Shri Ajay R. Singh
Respondent by : Ms. Rajeshwari Menon**

**Date of Hearing : 09/05/2024
Date of Pronouncement : 09/05/2024**

ORDER

PER B.R. BASKARAN, ACCOUNTANT MEMBER :

The assessee has filed this appeal challenging the order dated 09.08.2023 passed by the learned Commissioner of Income Tax (Appeals), NFAC, Delhi (in short 'CIT(A)') and it relates to A.Y 2014-15.

2. The appeal is barred by limitation by 72 days. The assessee has filed a petition requesting the bench to condone the delay, wherein it is stated that assessee was not aware of the order so passed by the learned CIT(A) and it came to its notice after receipt of a notice under Section 271(1)(c) of the Act.

Accordingly, it is submitted that the delay is not intentional. We heard the parties on this preliminary issue. Having regard to the submissions made by the assessee, we are of the view that there was a reasonable cause for the assessee in filing the appeal belatedly. Accordingly, we condone the delay and admit the appeal for hearing.

3. The learned AR submitted that the learned CIT(A) has dismissed the appeal of the assessee on the reasoning that the assessee has settled the dispute under Vivad se Vishwas Scheme. The learned AR submitted that the impugned assessment order has been passed under Section 147 read with Section 144B of the Income Tax Act, 1961 (in short 'the Act') and the dispute in this assessment year has not been settled by the assessee under Vivad se Vishwas Act, 2020. He submitted that assessee has, in fact, settled the dispute arising from the assessment order passed under Section 143(3) of the Act. Accordingly, the learned AR submitted that the learned CIT(A) has dismissed the appeal of the assessee by wrongly appreciating the facts mentioned above. Accordingly, he submitted that all the issues may be restored to the file of the learned CIT(A) for adjudicating them on merits.

4. We heard the learned DR and perused the record. Having regard to the submissions made by the learned AR, we are of the view that the issues contested in this appeal needs to be restored to the file of the learned CIT(A) for adjudicating them on merits, since the learned CIT(A) had dismissed the appeal on wrong premise. Accordingly, we set-aside the order passed by the learned CIT(A) and restore all the issues to his file for adjudicating them on merits.

5. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 9th May, 2024.

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai, Date : 9th May, 2024

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Copy to :

- 1) The Applicant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, "F" Bench, Mumbai
- 5) Guard file

By Order

Dy./Asstt. Registrar
I.T.A.T, Mumbai