

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE "SMC" BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.670/PUN./2024 [E-APPEAL]

Assessment Year 2017-2018

|  |     |  |
|--|-----|--|
| MS Diamond Enterprises,<br>Plot No.A-9, MIDC,<br>PARBANI – 431 401<br>Maharashtra.<br>PAN AALFM2810P | vs. | The Income Tax Officer,<br>Hingoli, Aaykar Bhavan,<br>Near Akshwani Parbhani.<br>Maharashtra. PIN 431 401. |
| (Appellant)  |     | (Respondent)   |

|                |                               |
|----------------|-------------------------------|
| For Assessee : | Shri Rajendra Agiwal          |
| For Revenue :  | Shri Kalpesh Kumar Rupavatiya |

|                         |            |
|-------------------------|------------|
| Date of Hearing :       | 10.05.2024 |
| Date of Pronouncement : | 14.05.2024 |

**ORDER**

This assessee's appeal for assessment year 2017-18, arises against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1060705510(1), dated 09.02.2024, in proceedings u/s.144 of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties at length. Case file perused.

2. It emerges at the outset that the learned NFAC herein has refused to condone the delay of 727 days in filing of the lower appeal instituted on 22.01.2022, against the assessment order dated 27.12.2019 despite the fact that the entire foregoing period i.e., from date of assessment coming on 27.12.2019 to that of the institution dated 22.01.2022 falls within the Covid-2019 pandemic outbreak period; has already

been held to be excluded for all intents and purposes as per hon'ble apex court's directions in *Cognizance for Extension of Limitation, In re 438 ITR 296 (SC)* read with judgment in *Cognizance for Extension of Limitation, In re 432 ITR 206 (SC)* dated 08-03-2021 and 421 ITR 314, under the limitation law.

3. This being the clinching factual position emanating from the case file, it is deemed appropriate in the larger interest of justice to condone the impugned 727 days in filing of the lower appeal and restore the matter back to the file of learned NFAC for it's afresh appropriate adjudication preferably within three effective opportunities of hearing subject to the rider that it is the assessee's sole risk and responsibility to prove the case 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 14.05.2024.

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 14<sup>th</sup> May, 2024

VBP/-

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|    |                               |
|----|-------------------------------|
| 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.