

IN THE INCOME TAX APPELLATE TRIBUNAL

PUNE "SMC" BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.675/PUN./2024 [E-APPEAL]

Assessment Year 2015-2016

Shri Ravindra Bhausahab Madhavai, Flat No.8, Patil Park, Near Bon Vivante Hotel, Old Gangapur Naka, NASHIK-422 005. Maharashtra. PAN AZIPM7536N	vs.	The Income Tax Officer, Ward-1(1), Kendriya Rajaswa Bhavan, Gadkari Chowk, Old Agra Road, NASHIK-422 002. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Sanket M Joshi
For Revenue :	Shri Kalpesh Kumar Rupavatiya

Date of Hearing :	10.05.2024
Date of Pronouncement :	15.05.2024

**ORDER**

This assessee's appeal for assessment year 2015-16, arises against the CIT(A), Pune-11, Pune's Din and Order No. ITBA/APL/S/250/2023-24/1059707782(1), dated 15.01.2024, in proceedings u/s.143(3) r.w.s.147 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 CIT(A)'s lower appellate detailed discussion under challenge has refused to condone 149 days delay in filing; *qua* ex-parte order passed against the taxpayer. Learned DR fails to dispute that the assessee's Form-35 filed in the lower appellate proceedings had sufficiently explained the foregoing delay by way of

reasonable cause as owing to circumstances beyond his control. That being the case, I condone the delay of 149 days in filing appeal before the lower appellate authority in light of 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. Coupled with this, the Ld. CIT(A)'s has also not adjudicated the merits of the assessee's various substantive grounds as contemplated u/sec.250(6) of the Act requiring it to give points for determination followed by a detailed adjudication thereof. Faced with the situation, I deem it appropriate in the larger interest of justice to restore the assessee's instant appeal back to the CIT(A), for it's afresh 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.

3. Delay of 19 days in filing the instant appeal is condoned as per assessee's solemn averments in light of 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.

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

Order pronounced in the open Court on 15.05.2024.

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 15<sup>th</sup> May, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A), Pune-11, Pune
4.	The Pr. CIT, Pune concerned
5.	D.R. ITAT, "SMC" Bench, Pune.
6.	Guard File.

//By Order//

//True Copy //

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