

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE "A" BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

I.T.A.Nos.1280, 1281 & 1282/PUN./2023 [E-APPEALS]
Assessment Year 2017-2018

Shri Arjunsingh Chhagansingh Vyas, Royal Tours And Travels, Trivedi Building, Mumbai-Pune Road, Gavliwada, Lonavla. PIN - 410 401. Maharashtra. PAN ADJPV0112E	vs.	The ITO, Ward-8(3), Aaykar Bhawan, 12-Sadhu Waswani Square, Pune. PIN - 411 001. Maharashtra.
(Applicant/Appellant)		(Respondent)

For Assessee :	Shri Bharat Kumar
For Revenue :	Shri Ramnath P Murkunde

Date of Hearing :	08.05.2024
Date of Pronouncement :	15.05.2024

ORDER

PER SATBEER SINGH GODARA, J.M. :

These assessee's three appeals; all for the assessment year 2017-2018, arises against National Faceless Appeal Centre [in short the "NFAC"] Delhi's as many Din and Order Nos. ITBA/NFAC/S/250/2023-24/1056753518(1); 1056753518(1) and 1056753281(1); all dated 04.10.2023, in proceedings u/secs. 271AAC1, 154, and 147 r.w.s.144 of the Income Tax Act, 1961 (in short "the Act"); appeal-wise, respectively.

Heard both the parties at length. Case files perused.

2. It emerges during the course of hearing that the learned NFAC's identical detailed discussion forming subject matter of adjudication herein has refused to condone 155, 160 and 356 days delay; case-wise; respectively; thereby holding that the assessee could not explain any reasonable cause in support of its condonation averments submitted therein.

3. Learned counsel at this stage invited our attention to the assessee's identical condonation averments reading as under :

"2. I am engaged in the business activities of Tours and travels under the name and style of M/s. Royal Tours and Travels.

3. I filed original return of income on 09/08/2017 for the AY 2017-18 declaring total Income of Rs.10,27,230/-

4. It was alleged that I am not e-verified his return of income on e-filing portal and has also not sent the signed copy to CPC, Bangalore within prescribed time. Hence, the said return is invalid return as per the provision of Act.

5. I have filed form under IDS 2016 and declared of Rs. 11,15,000/- under the scheme as undisclosed income from earlier years. I have paid first installment of Rs. 1,25,438/- and remaining payment of Rs. 3,76,312/- was not paid due to misunderstanding with Tax Consultant.

Thereafter the IDS 2016 application became invalid due to nonpayment of Taxes.

6. I am told by my previous CA that there is no grievance of invalidation of IDS-2016 form filed in said scheme. Therefore I was under bonafide believed that I am unable to proceeds on that.

7. I have received notice u/s 148 of the Act mentioning all above facts as mentioned as under :

The case was reopened after recording reasons of reopening proceedings u/s 147 of the Act and taking necessary approval as per the provision of Act. The department is in possession of the information that the assessee has declaration under IDS-2016 before PCIT-3, Pune and defaulted in making payment of tax within specified period which resulted the declaration as invalid.

8. I was under bonafide believe that still department can give me chance to pay balance amount so I filed reply during the assessment proceedings on 02/05/2022 which is reproduced as under.

I am not aware of Income Tax procedures and while doing IDS-2016, I have paid all the amounts to my previous consultant who has not paid any amounts. Being a family member we could not lodge complaint against him. Being honest tax payer I am ready to

pay the balance tax as per the provisions of section 184 and 185 for which I need 2 or 3 installments, if possible.

9. *Finally I am received assessment order after addition of Rs.11,15,000/- and I was under bonafide believe that now nothing can positive happens with me.*

10. *I was good luck when I met with CA Bharat Kumar in Mumbai for personal work and then I discussed the matter with him and he told me there still chance of getting relief appeal. So I filed appeal before Hon'ble CIT(A) and filed details submission.*

11. *There is delay in filing of Appeal as under:-*

Date of Assessment Order 09/03/2022

Date of Appeal:- 28/02/2023

Delay in filled appeal of assessment :- 356 Days

Date of Penalty order 26/09/2022

Date of Appeal:-28/02/2023

Delay in filled appeal of Penalty Order:-155 Days

Date of Order u/s 154 21/09/2022

Date of Appeal 28/02/2023

Delay in filled appeal of Rectification Order:-160 Days.

12. *Ld. CIT(A) did not condone the delay in filing appeal and dismissed the appeal without condoning delay.”*

4. Mr. Murkunde is indeed very fair enough in not disputing the assessee's foregoing identical condonation averments. His only case is that the same prima facie indicate assessee's ignorance of law which could not be taken as a reasonable cause for the purpose of accepting the same.

5. We have given our thoughtful consideration to the assessee's and Revenue's vehement arguments regarding the instant identical sole question of condonation of the foregoing delay(s) in filing of his three alleged appeals involving quantum rectification and penalty proceedings in above terms. We find that the assessee's condonation averments had duly explained the corresponding unavoidable circumstances preventing him from having filed the corresponding lower appeals beyond the prescribed period of limitation. Learned counsel quoted case law 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. Faced with this situation, we find force in the assessee's foregoing identical submissions in all these three appeals and hold that his condonation averments sufficiently explained the impugned delay as involved reasonable cause beyond his control. This is indeed coupled with the fact that the lower appellate authority has nowhere adjudicated the merits in any of these three appeals. We accordingly deem it as a fit instance to condone the impugned

delay(s) in filing of these three appeals involving varying number of days (supra) and restore the assessee's instant substantive grounds back to 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.

6. These assessee's three appeals I.T.A.Nos.1280, 1281 & 1282/PUN./2023 are allowed for statistical purposes in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 15.05.2024.

Sd/-
[INTURI RAMA RAO]
ACCOUNTANT MEMBER

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 15th May, 2024

VBP/-

Copy to

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

//By Order//

//True Copy //

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