

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.594/Bang/2024
Assessment Year : 2012-13

M/s. Metal Closures Pvt. Ltd., 39/4B, 12 th K. M. Kanakapura Road, Kanakapura, Bengaluru – 560 062. PAN : AABCM 1666 J	Vs.	DCIT, Circle – 4(1)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. R. E. Balasubramanyam, CA
Revenue by	:	Shri. Subramanian S, JCIT (DR)(ITAT), Bengaluru.

Date of hearing	:	08.05.2024
Date of Pronouncement	:	08.05.2024

ORDER

Per George George K, Vice President:

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 30.01.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2012-13.

2. At the very outset, we notice that CIT(A) had dismissed the appeal of the assessee *in limine* by not condoning the delay of 386 days in filing the appeal before him. The CIT(A) had observed at para 5.1 of the impugned order that assessee has failed to submit any reasons for the delay in filing the appeal

3. The learned AR submitted that assessee had filed delay condonation application during the course of physical hearing before the CIT(A). It was submitted that later appeal migrated to National Faceless Appeal Centre (NFAC) and NFAC had failed to take note of the condonation application. It was submitted that in the interest of justice and equity, the matter may be restored to the CIT(A) to consider the delay condonation application filed during the course of physical hearing.

4. Learned DR was duly heard.

5. We have heard the rival submissions and perused the material on record. Initially, the appeal before the CIT(A) was being heard physically. Assessee filed delay condonation application along with Form 35 before the CIT(A). Further, condonation application during the course of physical hearing was also filed. Copies of the same are placed on record. Subsequently, the appeal of the assessee had migrated to NFAC. The CIT(A), at the NFAC, without taking notice of the condonation application filed by the assessee had dismissed the appeal *in limine* by not condoning the delay of 386 days. In the interest of justice and equity, we restore the matter to the CIT(A). The CIT(A) is directed to consider the condonation applications which are already on record and take a decision on the condonation application filed by the assessee in accordance with law. It is ordered accordingly.

6. In the result, appeal filed by the assessee is allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(WASEEM AHMED)
Accountant Member

Sd/-

(GEORGE GEORGE K)
Vice President

Bangalore.

Dated: 08.05.2024.

/NS/*

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| 1. Appellants | 2. Respondent |
| 3. DRP | 4. CIT |
| 5. CIT(A) | 6. DR, ITAT, Bangalore. |
| 7. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore.