

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER  
AND  
SMT. RENU JAUHARI, ACCOUNTANT MEMBER**

**ITA No.365/MUM/2024  
Assessment Year: 2017-18**

<b>Shri Shekhar Anandrao Bagal,</b> 1/4 Priya Girish Vihar CHS, V.N. Purav Marg, Sion Chunabhatti, Mumbai - 400022 <b>PAN: AFYPB0645R</b>	Vs.	<b>Ld. Commissioner of Income Tax (Appeals),</b> National Faceless Appeal Centre ('NFAC'), Delhi Assistant Commissioner of Income Tax, Circle 41(1)(1), Kautilya Bhavan, Bandra Kurla Complex, Mumbai - 400051
(Appellant)		(Respondent)

**Present for:**

Assessee by : None  
Revenue by : Shri Nagnath Pasale, D.R.

Date of Hearing : 27. 05. 2024  
Date of Pronouncement : 29. 05. 2024

**O R D E R**

**Per : Narender Kumar Choudhry, Judicial Member:**

This appeal has been preferred by the assessee against the order dated 28.11.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2017-18.

**2.** In the instant case, the Assessing Officer (AO) vide assessment order dated 28.05.2023 under section 147 read with section 144B of the Act made the addition of Rs.4,37,500/- under section 56(2)(vii) of the Act which was challenged by the assessee before the Ld. Commissioner, who dismissed the appeal of the assessee in limine on the reason "that there was delay of 30 days in filing the first appeal. Though the assessee has claimed in form No.35 that delay was due to ill health of the assessee, however, did not furnish any documentary evidence/medical certificate etc."

**3.** We have given thoughtful considerations to the peculiar facts and circumstances of the case. As the delay is minuscule and based on the medical/health condition of the assessee, hence considering the reason of health condition as genuine and bonafide and even otherwise not finding any reason or material contrary to the claim of the assessee, we are inclined to condone the delay of 30 days in filing the appeal before the Ld. Commissioner. Consequently, the delay is condoned and the case is remanded to the file of the Ld. Commissioner for decision on merits, suffice to say by affording reasonable opportunity to the assessee to substantiate his claim before the Ld. Commissioner.

**4.** We also direct the assessee to cooperate with the appellate proceedings and to file the relevant submissions/documents which would be essential/required by the Ld. Commissioner for proper adjudication of the case. We clarify that in case of further default, the assessee shall not be entitled for any leniency.

**5.** Hence, the case is remanded accordingly.

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

**Order pronounced in the open court on 29.05.2024.**

**Sd/-  
(RENU JAUHARI)  
ACCOUNTANT MEMBER**

**Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER**

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.