

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD**

BEFORE SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / **ITA No. 469/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Syed Burhanuddin, Hyderabad [PAN No. BDYPS4653P]	Vs. Income Tax Officer, Ward-14(2), Hyderabad
अपीलार्थी / Appellant	प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri K.A. Sai Prasad, AR
राजस्व द्वारा/Revenue by: Shri M. Naveen Kumar, DR

सुनवाई की तारीख/Date of hearing: 10/06/2024
घोषणा की तारीख/Pronouncement on: 13/06/2024

आदेश / ORDER

Aggrieved by the order dated 10/10/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Syed Burhanuddin ("the assessee") for the assessment year 2017-18, assessee preferred this appeal with a delay of 146 days.

2. Learned AR placed on record a copy of the affidavit filed by the assessee, explaining the reasons for delay in filing the appeal, that the e-mail address registered on the income tax portal was incorrect and did not belong to the assessee. As a result, assessee could not receive all the notices and communications. The assessee further stated that the assessee was not aware of the notices sent to him and upon contacting his

tax consultant only, he became aware of the same. Through his petition accompanying affidavit, the assessee prayed the Bench to condone the delay in filing the appeal, since the delay occurred is not due to any negligence or lack of diligence on the part of the assessee, but it is just beyond his control.

3. Learned DR opposed to condone the delay. However, in the interest of justice, considering the reasons assigned by the assessee to the delay, I am inclined to condone the delay and to give an opportunity to the assessee to present its case on merits, so that the cause of justice would be advanced. The delay is, therefore, condoned and I shall now proceed to hear and dispose of the matter on merits.

4. As could be seen from the record, I find that the learned CIT(A) disposed-of the appeal ex-parte, observing that various notices through ITBA portal have been issued to the assessee, but the assessee failed to comply with any of such notices nor did the assessee produce any documents, explanation and evidence to substantiate the grounds raised.

5. Though the learned DR vehemently relied on the orders of the Revenue authorities, the fact remains that the learned CIT(A) did not refer to the facts nor did he dispose of the appeal on merits. Even in the absence of the assessee, it is always open for the learned CIT(A) to deal with the matter on merits, instead of dismissing the same.

6. Requirement of law under section 250 (6) of the Act is that the order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision. Even in the absence of the assessee, it is always open for the learned CIT(A) to deal with the matter on merits instead of dismissing the same in limine.

7. Having regard to the facts and circumstances of the case, I am of the considered opinion that the impugned order does not comply with the requirement of Section 250(6) of the Act and cannot be sustained. Learned AR submitted that since the learned Assessing Officer also finalized the assessment under section 144 of the Act, affording an opportunity to the assessee to prosecute his case before the learned Assessing Officer, by submitting the documents/evidences, the highest that would happen is that a cause could be decided on merits. I consider this request reasonable, and it would be in the interest of justice to remit the issue to the file of the learned Assessing Officer for considering the submissions of the assessee and take a fresh view in the matter.

8. With this view of the matter, I set aside the impugned order and restore the issue to the file of the learned Assessing Officer to decide the issue afresh. I direct the assessee to co-operate with the learned Assessing Officer in getting the matter disposed of on merits, without seeking any adjournments and the learned Assessing Officer to take a fresh look at the matter, after affording a reasonable opportunity of being heard to the assessee. Grounds are accordingly treated as allowed for statistical purposes.

9. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on this the 13th day of June, 2024.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 13/06/2024

TNMM

Copy forwarded to:

1. Syed Burhanuddin, C/o. Katrapati & Associates, 1-1-298/2/B/3, Sowbhagya Avenue Apts, 1st Floor, Ashok Nagar, Street No. 1, Hyderabad.
2. Income Tax Officer, Ward-14(2), Hyderabad.
3. The Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE.

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD