

bypass surgery and is advised for rest for a month's time, it was submitted by the assessee that they requested to postpone the case and sanction a further hearing date, by submitting all the documents to their consultant. Later on, on verification of their messages randomly, the assessee found some income tax demand existing, immediately approached the local Assessing Officer. After verification, the assessee came to know that since the assessee did not respond to the notices issued under section 250 of the Income Tax Act, 1961 (for short "the Act"), CIT(A) dismissed the appeal. Hence, the assessee prayed the Bench to condone the delay in filing the appeal, since the delay is unintentional and inadvertent due to the circumstances beyond their control.

3. There is no reason as to why this explanation of the assessee cannot be accepted. Though learned DR opposed the request to condone the delay, in the interest of justice, 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 under section 250 of the Act were 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. In these circumstances, I set aside the impugned order and restore the issue to the file of the learned CIT(A) to pass the order in compliance with section 250(6) of the Act. I direct the assessee to co-operate with the learned CIT(A) in getting the matter disposed of on merits. Grounds are accordingly treated as allowed for statistical purposes.

8. 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. The Commandant 7th Battalion Telangana State Special Police,
Dichpally, Nizamabad.
2. The Income Tax Officer, Ward-3, Nizamabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD