

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH
BENCH 'B' CHANDIGARH

BEFORE: SHRI A.D.JAIN, VICE PRESIDENT AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 1163/CHD/2019

निर्धारण वर्ष / Assessment Year : 2012-13

Shri Om Parkash, S/o Shri Ranjit Singh, Village-Dhani Rampura, P.O. Urnai, Distt. Kurukshetra.	बनाम VS	The ITO, Ward-2, Kurukshetra.
स्थायी लेखा सं./PAN /TAN No: BEQPP8247D		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri B.M.Monga, Advocate &
Shri Rohit Kaura, Advocate

राजस्व की ओर से/ Revenue by : Shri Dharam Vir, JCIT, Sr.DR

तारीख/Date of Hearing : 26.06.2024

उद्घोषणा की तारीख/Date of Pronouncement : 01.07.2024

PHYSICAL HEARING

आदेश/ORDER

PER A.D.JAIN, VICE PRESIDENT

This is assessee's appeal for assessment year 2012-13 against the order dated 21.08.2018 passed by the Id. CIT(A), Karnal.

2. There is a delay of 259 days in filing the appeal before this Tribunal. The assessee has filed an application for condonation of delay explaining the

reasons for the delay occurred in filing the present application. The contents of the application for condonation of delay are reproduced hereunder :

“1. That, Sh. Rahul Pooniya, Advocate, chamber No. 57, Old Court complex, Kurukshetra, is looking after various civil and criminal cases of the assessee-appellant Sh. Om Parkash and that of Panchayati Akhara’.

2. That on 08.10.2018, the assessee received Appellate Order from the Worthy CIT (A), Karnal. The original Order of Worthy CIT(A), Karnal along with other documents were duly handed over to the said advocate. Since the - said Advocate Sh. Rahul Pooniya was efficiently looking after other civil and criminal cases of the assessee, the assessee was under bonafide belief that he will do the needful and would file the appeal of the assessee before higher forum.

3. Lateron, in the month of August 2019, the assessee received some penalty notices. The assessee immediately handed over the said Notice to his regular Chartered Accountant at Kurukshetra, who asked the assessee about the fate of appeal before the Hon'ble ITAT, Chandigarh. The Assessee immediately contacted Sh. Rahul Pooniya, advocate about the fate of appeal. During course of discussions, it was discovered that the said Advocate, inadvertently and unfortunately had not filed the appeal before the Hon'ble Income Tax Appellate Tribunal and has kept the original Order of the CIT(A) along with other documents of assessee in some folder and has misplaced that folder.

4. That thereafter, the assessee along with said advocate, contacted another advocate, Sh. Ajay Sharma at pehowa and requested to take immediate steps. Then the appeal was filed before Hon'ble ITAT, Chandigarh immediately on 23.08.2019. But in the process delay of 259 days has occurred.

5. That whatever delay has occurred, i.e. of 259 days, it is due to inadvertent mistake on the part of the Advocate Sh. Rahul Pooniya practicing at Court complex Kurukshetra. Therefore, it is prayed that whatever prejudice has been caused to the aforesaid assessee, is due to the bonafide mistake of Sh. Rahul Pooniya, Advocate for which the Assessee should not suffer and condoning the delay in filing the appeal will not cause any prejudice to the 'Revenue' and further will serve the cause of justice and meet the ends of justice.

That the appellant is not to get benefited by causing delay as the issue involved in the litigation is likely to be allowed in view of grounds taken in the appeal and further in view of findings categorically recorded by the ITO, Ward-1, Kurukshetra in the case of Seller Mahant Ganga Puri.

Therefore the appellant is filing the present application praying for condonation of delay of 259 days in filing the appeal.

That in case the delay is not condoned; the appellant shall suffer irreparable loss for none of his fault that cannot be compensated in any other way. Affidavit (In

Original) of Sh. Rahul Pooniya, Advocate is attached herewith for kind consideration of the Hon'ble Bench.

PRAYER:

In view of submissions made above, it is respectfully prayed that the delay of 259 days in filing the present appeal before this Hon'ble Court, may kindly be condoned and the main appeal may kindly be heard and adjudicated on merits in the interest of justice. Therefore, in the peculiar facts and circumstances of the case the appellant with folded hands prays for invoking the merciful discretion of the Hon'ble Court to condone the delay.”

3. From the contents of the application, we are satisfied that the assessee was prevented by sufficient cause from filing the appeal in time and delay was not intentional. Even otherwise, the assessee cannot be said to stand to gain anything by deliberately delaying the filing of the appeal before this Tribunal. Therefore, in the interest of justice, the delay caused in filing the present appeal is condoned.

4. The ld. Counsel for the assessee has placed on record an application dated 07.05.2024 for admission of additional evidence u/r 29 of the ITAT Rules, 1963 alongwith additional evidence to be placed on record and has requested that the same may be admitted.

5. We have gone through the application as well as annexures and have found that the additional evidence is

necessary to decide the matter on merits. Therefore, the application for additional evidence is allowed and the matter is remanded back to the ld. CIT(A) to decide the matter afresh considering the additional evidence filed by the assessee.

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

Order pronounced on 01.07.2024.

Sd/-

(KRINWANT SAHAY)
ACCOUNTANT MEMBER

Sd/-

(A.D.JAIN)
VICE PRESIDENT

“Poonam”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar