

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC-'B' BENCH : BANGALORE**

BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER

ITA No. 1017/Bang/2024
Assessment Year : 2019-20

M/s. Gloria Credit Co-operative Society Ltd., 1 st Floor, Vishwa Sankeerna, Court Road, Puttur, Dakshina Kannada Karnataka – 574 201. PAN: AAAJG0583G	Vs.	The Income Tax Officer, Ward – 1, Puttur.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Sheethal Borkar, Advocate
Revenue by	:	Shri Ganesh R Ghale, Standing Counsel for Department

Date of Hearing	:	26-06-2024
Date of Pronouncement	:	26-06-2024

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal arises out of order dated 18.03.2024 passed by the Ld.CIT(A)-5, Mumbai for A.Y. 2019-20.

2. The Ld.AR at the outset submitted that assessee is a primary credit co-operative society duly registered under the Karnataka

Co-operative Societies Act and is engaged in carrying out the objects as stipulated in the byelaws. The assessee filed its return of income for the year under consideration on 29.09.2020 claiming deduction of Rs. 19,34,450/- u/s. 80P of the act.

The return was processed u/s. 143(1) of the act disallowing the deduction claimed u/s. 80P.

3. Aggrieved by the intimation issued, the assessee filed appeal before the Ld.CIT(A).

4. It is submitted that there was delay of 32 months in filing appeal before the Ld.CIT(A), which was substantiated by way of affidavit that is extracted in the impugned order.

The Ld.AR submitted that, the assessment order was passed on 23.11.2020 and the assessee due to persisting COVID period, could not prefer the appeal before Ld.CIT(A) within the period of limitation.

4.1 In the affidavit, extracted in the impugned order, the assessee had submitted that, the then representative was handed over the demand notice along with necessary papers to file appeal against the order however, the same was not done. He submitted that, it was only when, the assessee received the demand notice on 21.08.2023, the fact came into light that the then representative did not file any appeal before the Ld.CIT(A).

4.2 The Ld.AR submitted that, it is thereafter, the assessee consulted new representative, who immediately made the appeal

to be filed before the Ld.CIT(A). The Ld.AR prayed that the limitation period between 24.03.2020 and 31.05.2022 was suspended by *Hon'ble Supreme Court* vide order dated 23.03.2020 and 10.01.2022. The Ld.AR submitted that, it is 15 months thereafter that falls outside the COVID period that was not considered by the Ld.CIT(A).

4.3 The Ld.AR thus submitted that assessee being a credit co-operative society deserves to be considered empathetically, as the office bearers are not well versed with the income tax appellate proceedings and it took sometime to gather the papers and get signature in the relevant forms. He thus prayed for the issued to be decided on merits as there is no mistake that could be attributable to assessee for the delay that occurred in filing the appeal before the Ld.CIT(A) as well as this *Tribunal*.

4.4 On the contrary, the Ld.DR vehemently opposed the condonation by submitting that assessee very well is aware about the proceedings and was in contact with the then representative but had acted carelessly in not following up the completion of this process of appeal having filed before the Ld.CIT(A).

We have perused the submissions advanced by both sides in the light of records placed before us.

5. The Ld.AR further submitted that there is a delay of 5 days in filing the present appeal before this *Tribunal* which has been explained in the affidavit that is reproduced herein.



INDIA NON JUDICIAL

Government of Karnataka

Rs. 100

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Certificate Issued Date	: 18-Jun-2024 12:59 PM
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Unique Doc. Reference	: SUBIN-KAKACRSFL0821681570440594W
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Description of Document	: Article 4 Affidavit
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Consideration Price (Rs.)	: 0 (Zero)
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For SHRI YOKESH KAKA
SOCIETY LTD., PUTTUR BRANCH

[Signature]
Authorized Signatory




BEFORE THE INCOME TAX APPELLATE TRIBUNAL,
BENGALURU BENCH, BENGALURU.

Filing of Income Tax Appeal for the AY 2017-18,
PAN: ACZPP0444N,

AFFIDAVIT

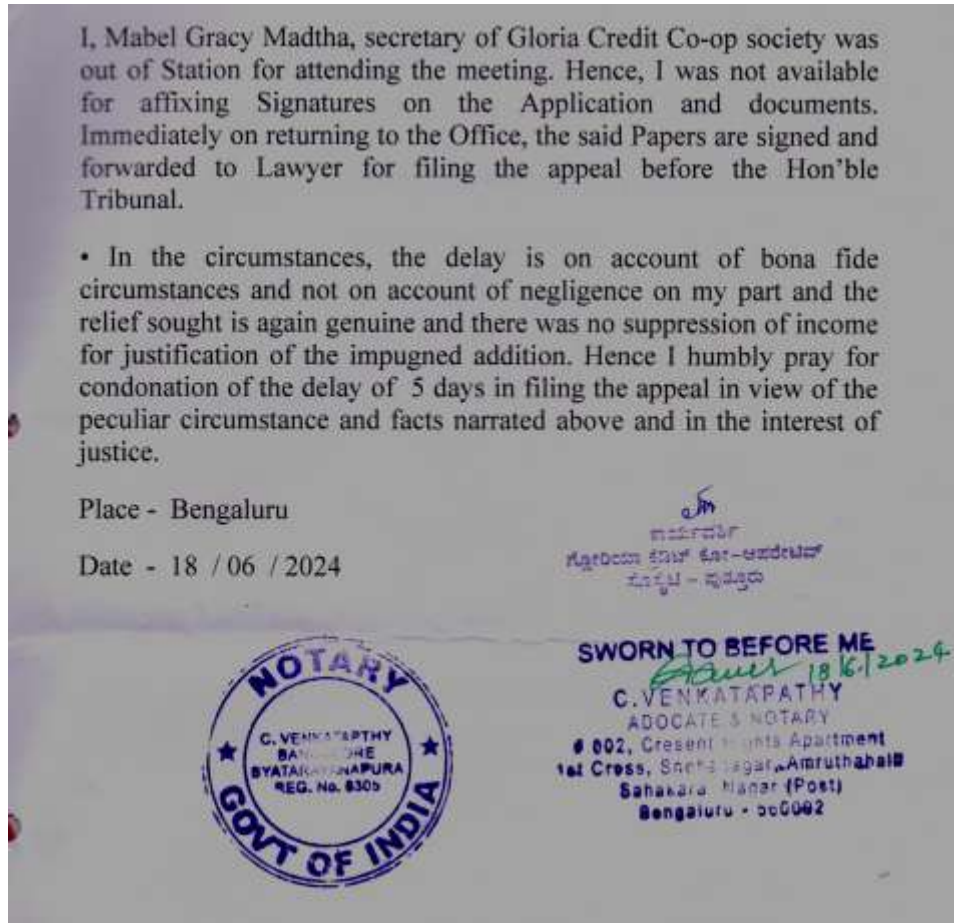
I, Gloria Credit Co-op society, do hereby solemnly affirm and state as follows:

[Signature]
Authorized Signatory



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5.1 The delay of 5 days in the appeal before this *Tribunal* is because, the assessee was collecting documents to be forwarded to the AR for taking necessary steps as has been submitted in the affidavit.

There is no malafide intention we notice in the reason provided by the assessee for this delay of 5 days.

Accordingly, the delay in filing the present appeal before this Tribunal stands condoned.

6. We note that, there is a total delay of 32 months out of which, 15 months fall outside the purview of COVID period. Considering the fact that, the entire country was in a complete satire from December, 2019, no fault of assessee could be attributable to the

delay. It is noted that the assessee promptly forwarded the documents to the erstwhile representative for taking necessary steps to prefer the appeal before Ld.CIT(A). Thereafter as the CVOID period started and there was a complete lockdown declared in the country. The only period that needs to be considered is 15 months from June, 2022. In our considered opinion, the assessee was absolutely unaware of the fact that appeal was not filed within the limitation period. It was only when it received the demand notice that the assessee could realize the mistake that happened and immediately took necessary steps to file the appeal before the Ld.CIT(A).

6.1 Considering the circumstances under which the delay was caused in filing the appeal before Ld.CIT(A), I am of the opinion that there is a reasonable and sufficient cause.

6.2 It is also noted that there is no malafide intention on behalf of assessee in not filing the appeal before Ld.CIT(A) within time. Nothing to establish any such intention has been filed by the revenue before this *Tribunal*.

6.3 In my opinion there is sufficient cause for condoning the delay as observed by *Hon'ble Supreme Court* in case of *Collector Land Acquisition Vs. Mst. Katiji & Ors.*, reported in (1987) 167 ITR 471 in support of his contentions.

6.4 I place reliance on following observations by *Hon'ble Supreme Court* in case of *Collector Land Acquisition Vs. Mst. Katiji & Ors.*, reported in (1987) 167 ITR 471 wherein, *Hon'ble Court* observed as under:-

"The Legislature has conferred the power to condone delay by enacting section 51 of the Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on de merits". The expression "sufficient cause" employed by the Legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose of the existence of the institution of courts. It is common knowledge that this court has been making a justifiably liberal approach in matters instituted in this court. But the message does not appear to have percolated down to all the other courts in the hierarchy.

And such a liberal approach is adopted on principle as it is realized that :

- 1. Ordinarily, a litigant does not stand to benefit by lodging an appeal late.*
- 2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties.*

.....1.Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period."

6.5 Considering the submissions by both sides and respectfully following the observation by *Hon'ble Supreme Court*, I find it fit case to condone the delay caused in filing the present appeal as it is not attributable to the assessee.

Accordingly, the delay in filing the appeal before Ld.CIT(A) stands condoned.

7. It is noted that the Ld.CIT(A) dismissed the appeal in limine without considering the issues on merits. I am therefore of the opinion that, the issues raised by the assessee deserves to be addressed on merits. I thus remand the appeal back to Ld.CIT(A) with the direction to pass a detailed order on merits in accordance with law.

The Ld.CIT(A) is directed to pass a detailed order on merits having regards to the decision of *Hon'ble Supreme Court* in case of *Mavilayi Service Co-operative Bank Ltd. v. CIT* reported in 431 ITR 1 and *Kerala State Co-operative Agricultural and Rural Development Bank Ltd. vs. AO* reported in (2023) 154 taxmann.com 305.

The assessee is also directed to furnish all relevant documents in support of its claim.

Needless to say that proper opportunity of being heard must be granted to assessee.

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

Order pronounced in the open court on 26th June, 2024.

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 26th June, 2024.
/MS /

Copy to:

1. Appellant
3. CIT
5. Guard file

2. Respondent
4. DR, ITAT, Bangalore
6. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore