

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

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

<b>ITA No. 876/Bang/2024</b>
<b>Assessment Year : 2018-19</b>

M/s. D.K. Poultry, Old No. 4, BBMP No. 48/1A/4, 1 <sup>st</sup> Cross, 1 <sup>st</sup> Main, K.P. Road Vallabha Nagar, Bangalore – 560 062. <b>PAN: AAMFD4615N</b>	<b>Vs.</b>	The Deputy Commissioner of Income Tax, Circle – 3(1)(1), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri Suresh Muthukrishnan, CA
Revenue by	:	Shri Sunil Kumar Agarwal, CIT-DR

Date of Hearing	:	10-06-2024
Date of Pronouncement	:	24-06-2024

**ORDER**

**PER BEENA PILLAI, JUDICIAL MEMBER**

Present appeal arises out of order dated 11.03.2024 passed by NFAC, Delhi for A.Y. 2018-19.

**2.** At the outset, the Ld.AR submitted that the assessee filed appeal before the Ld.CIT(A) belatedly by 26 days during the COVID period which was not condoned.

**3.** The Ld.AR submitted that the assessment order was passed on 22.09.2021 and due date to file the appeal before Ld.CIT(A) was 22.10.2021. However, the appeal was filed on 17.11.2021. He submitted that all these dates fall within the COVID period at the time when the *Hon'ble Supreme Court* had extended the limitation period.

**4.** The Ld.AR submitted that in any event the *Hon'ble Supreme Court* vide order dated 23.03.2020 extended *suomoto* limitation that fell within the COVID period starting from 24.03.2020 to 30.05.2022. The Ld.AR thus submitted that the delay assumed by Ld.CIT(A) is within the COVID period and therefore prayed for the appeal to be remanded to the Ld.CIT(A) on consideration of the issues on merits.

**5.** The Ld.DR relied on the orders passed by authorities below. We have perused the submissions advanced by both sides in the light of records placed before us.

**6.** There is no doubt that the present appeal cannot be treated in the category of a belated appeal filed before the Ld.CIT(A) pursuant to the orders of *Hon'ble Supreme Court (supra)*.

The Ld.CIT(A) grossly erred in not deciding the issues raised by assessee on merits. We remand the appeal back to the Ld.CIT(A) to consider the issues on merits and pass a detailed order having regard to the evidences filed by the assessee.

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

Accordingly, the grounds raised by assessee stands partly allowed for statistical purposes.

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

**Order pronounced in the open court on 24<sup>th</sup> June, 2024.**

Sd/-  
(LAXMI PRASAD SAHU)  
Accountant Member

Sd/-  
(BEENA PILLAI)  
Judicial Member

Bangalore,  
Dated, the 24<sup>th</sup> June, 2024.  
/MS /

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|---------------|------------------------|
| 1. Appellant  | 2. Respondent          |
| 3. CIT        | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A)              |

By order

Assistant Registrar,  
ITAT, Bangalore