

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
&
SHRI RAHUL CHAUDHARY, HON'BLE JUDICIAL MEMBER

I.T.A. No. 1578/Mum/2024
Assessment Year: 2020-21

Rajneesh Sharma, Delhi AM-15, Shalimar Bagh Delhi -110088 [PAN: APQPS9227L]	Vs	Income Tax Officer, Civic Centre
---	----	---

अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
-------------------------------	---------------------------------

Assessee by :	Shri Vishal Kala, A/R (appeared virtually)
Revenue by :	Shri R.R. Makwana, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 10/07/2024
घोषणा की तारीख /Date of Pronouncement: 10/07/2024

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the ld. CIT(A)/Addl./JCIT-10, Mumbai, dt. 12/12/2023, pertaining to Assessment Year 2020-21.

2. The grievance of the assessee reads as under:-

"1 That on the facts and circumstances of the case and in law, the order dated December 12, 2023 passed by the ACIT(A) is bad in law and void ab initio and thus, liable to be quashed.

2. That on the facts and circumstances of the case and in law. ACIT(A) has erred in dismissing the appeal in limine alleging barred by limitation without appreciating that the order dated December 10, 2021 under section 143(1) of the Act was passed by the Central Processing Centre (CPC) and the appeal was fled on May 31, 2022 and delay of 142 days was covered by the order of Hon'ble Supreme Court of India in the case of cognizance for extension of limitation in MA No. 21 of 2022 arising out of Suo Moto Writ Petition No. 3 of 2020.

3. That on the facts and circumstances of the case and in law, the AGIT(A) upon receipt of appeal from NFAC on August 13, 2023 did not issue any notice to represent the Appellant, especially it the ACIT(A) was of the opinion that the appeal was barred by limitation, and further erred in not deciding the appeal on merits, when all the facts and submissions were on record.

4. *That on the facts and circumstances of the case and in law, CPC has erred in exceeding the jurisdiction while processing the income tax return of the Appellant for the subject AY and disallowing House Rent Allowance ("HRA") amounting to INR 3,64,698 claimed as exempt by the Appellant, which was duly supported by Form 12BB. The ACIT(A) further erred in not deciding the grounds on merits.*

5. *That on the facts and circumstances of the case and in law, CPC has erred in adding the HRA amounting to INR 3,64,698 without appreciating that while processing the income tax return under section 143(1) only an incorrect apparent claim could have been disallowed. The ACIT(A) further erred in not deciding the grounds on merits.*

6. *That on the facts and circumstances of the case and in law, CPC has erred in adding the HRA without appreciating that the same was claimed by the Appellant basis documentary evidence filed with the employer and duly reflected in the Form-16 for the subject AY. The ACIT(A) further erred in not deciding the grounds on merits.*

7. *That on the facts and circumstances of the case and in law, the AO has erred in levying/charging interest under sections 234B, 234C and 234D of the Act.*

8. *That on the facts and circumstances of the case and in law, the AO has erred in levying penalty under section 270A of the Act."*

3. The sum and substances of the grievance of the assessee is that the Id. CIT(A) erred in dismissing the appeal *in limine* without condoning the delay, when there was none.

4. A perusal of the order of the Id. CIT(A) shows that the Id. CIT(A) has not condoned the delay. We are of the considered view that, the Id. CIT(A) has not considered the factual matrix in true perspectives in the sense that Hon'ble Supreme Court in the case of *Cognizance for extension of limitation in MA No. 21 of 2022 arising out of Suo Moto Writ Petition No. 3 of 2020*, has extended the period of limitation during the Covid period and in the light of the said decision of the Hon'ble Supreme court, this appeal is not barred by limitation.

5. Therefore, considering the circumstances, we deem it fit to restore the issues to the file of the Id. CIT(A). The Id. CIT(A) is directed

to decide the appeal afresh on merits of the case after affording reasonable and adequate opportunity of being heard to the assessee.

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

Order pronounced in the Court on 10th July, 2024 at Mumbai.

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 10/07/2024

SC Sp

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. □ पीलार्डी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (□ पील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai