

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "D" Bench, Mumbai.

Before Shri Satbeer Singh Godara (JM) & Shri Girish Agrawal (AM)

I.T.A. No. 1418/Mum/2024 (A.Y. 2013-14)

Deepali Manthan Modi 11/19, Shankar Sagar Cooperative Housing Society, 157/A, Tilak Road, Ghatkopar East Mumbai-400 077. PAN : AKWPM1771C (Appellant)	Vs.	ITO, Ward 27(1)(4) Aayakar Bhavan M.K. Road Mumbai-400 020. (Respondent)
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Assessee by	None
Department by	Smt. Mahita Nair
Date of Hearing	03.07.2024
Date of Pronouncement	10.07.2024

O R D E R

Per Satbeer Singh Godara (JM) :-

This assessee's appeal for A.Y. 2013-14, arises against the National Faceless Appeal Centre "NFAC", Delhi's Din and order No. ITBA/NFAC/S/250/2023-24/1060391242(1) dated 1.2.2024, in proceedings under section 143(3) of the Income Tax Act 1961 in short (the "Act").

Case called twice. None appears at assessee's behest.

She is accordingly proceeded ex-parte.

2. It emerges at the outset that CIT(A)/NFAC's impugned lower appellate discussion has refused to condone 416 days delay in filing of the assessee's lower appeal. On the one hand and further confirmed section 57(iii) disallowance as well as section 68 unexplained cash credits involving varying sums on the other.

3. Learned DR vehemently supported the NFAC's lower appellate discussion during the course of hearing before us. She could hardly rebut the fact that the assessee had indeed explained her delay of 416 days in lower appeal not only by filing her condonation petition but also supported her explanation against the impugned twin addition(s). Faced with this situation, the Revenue submitted that the learned CIT(A) has already decided the issue(s) on merits without prejudice to delay aspect herein.

4. We note in this factual backdrop that once the assessee had explained the impugned delay of 416 days, the learned CIT(A) ought to have condoned the same and then dealt with merits than its impugned stand going against the assessee on both counts. Be that as it may, we are dealing with section 143(3) assessment dated 30.3.2016 wherein the assessee had indeed filed all relevant evidence(s) before the Assessing Officer. We therefore deem it appropriate in the larger interest of justice to restore the assessee's instant substantive grounds back to the learned NFAC/CIT(A) for afresh appropriate adjudication on merits as per law subject to the rider it shall be the taxpayer's risk and responsibility to plead and prove all relevant facts; by way of supportive evidence or additional evidence; as the case may be, preferably within three effective opportunities of hearing. Ordered accordingly.

4. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open court on 10th July, 2024.

Sd/-
(Girish Agrawal)
Accountant Member

Sd/-
(Satbeer Singh Godara)
Judicial Member

Mumbai : 10.07.2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent

3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
6. Guard File.

//True Copy//

PS

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai