

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

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

I.T.A. No. 1386/Mum/2024 (A.Y. 2010-11)

Ramesh Hansraj Gandhi C/o. G.P. Mehta & Co., CAS, 807, Tulsiani Chambers, 212, Nariman Point, Mumbai-400 021.  PAN : AACPG9394F (Appellant)	Vs.	DCIT-30(3) Kautilya Bhavan 6 <sup>th</sup> floor Bandra Kurla Complex, Bandra East, Mumbai 400 051. (Respondent)
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Assessee by	Shri G.P. Mehta
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. 2010-11, arises against the National Faceless Appeal Centre "NFAC", Delhi's Din and order No. ITBA/NFAC/S/250/2023-24/1062912003(1) dated 19.03.2024 in proceedings under section 143(3) r.w.s. 147 of the Income Tax Act 1961 in short (the "Act").

Heard both the parties at length. Case file perused.

2. It emerges at the outset that the learned CIT(A)/NFAC's lower appellate discussion; confirming the Assessing Officer's action making section 69 that unexplained commission expenses of Rs. 178,499/- and also treating alleged bogus profit entries Rs. 89,24,994/- in F&O segment, is ex-parte on account of the appellant's alleged non-compliance. Learned CIT(A) has further refused to condone 120 days delay in filing of the lower appeal despite the fact that

the assessee had explained the same in this condonation averments. Learned counsel further sought for buttress the possibility of communication gap vis-à-vis other circumstances beyond control that could not be all together ruled out in such instance of non-compliance in faceless appeal proceedings.

3. Faced with this situation, we quote Collector, Land Acquisition Vs. MST. Katiji & others (1987) 167 ITR 471 (SC) having settled law long back that all such technical aspects must make way for the cause of substantial justice and condone 120 days delay in filing of the lower appeal. We accordingly direct the learned CIT(A)/NFAC to decide assessee's impugned lower appeal afresh in tune with 250(6) of the Act as per law. Subject to the rider it shall be assessee'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.

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

Order pronounced in the open court on 10<sup>th</sup> 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//

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BY ORDER,  
(Assistant Registrar)  
ITAT, Mumbai