

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

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT
AND SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No. 823/Bang/2024
Assessment Year: 2017-18

M/s Prathamika Krushi Seva Sahakara Sanga Jade, Jade Post, Soraba Taluk, Shivamogga-577 419. PAN – AABAP 9882 F	Vs.	The Income Tax Officer, Ward – 4, Shivamogga.
APPELLANT		RESPONDENT

Assessee by	:	Shri V Srinivasan, Adv and Ms. Sunaiana Bhatia, CA
Revenue by	:	Shri Ganesh R Ghale, Standing Counsel (DR)

Date of hearing	:	30.05.2024
Date of Pronouncement	:	16.07.2024

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order passed by the NFAC, Delhi dated 24/01/2024 in DIN No. ITBA/NFAC/S/250/2023-24/1060092668(1) for the assessment year 2017-18.

2. At the outset, we note that there was a delay in filing the appeal by the assessee before us of 39 days. The assessee filed an Affidavit for condonation of the delay in filing the appeal. In the Affidavit, it was submitted that the assessee has not received physical copy of the order passed by the Id. CIT(A). Though, it was mentioned in Form No. 35 that there should not be any communication through email. Besides, it was also submitted that the erstwhile Secretary cum Chief Executive Officer

suffered a paralysis stroke dated 16/10/2021 and the new Secretary was appointed dated 21/2/2022, who was not aware of the Income-tax proceedings, which were pending prior to his taking up the charge. Thus, it was submitted that the delay has occurred in filing the appeal before the ITAT due to unavoidable circumstances. In view of the above, the Id. AR requested to condone the delay in filing the appeal and to hear the matter on merit. The Id. AR further pointed out that the orders passed by the authorities below are ex-parte. As per the AR, the assessee failed to make necessary compliance before the authorities below for the reasons stated above. Thus, the matter should be set aside to the AO for fresh adjudication as per the provisions of law.

4. On the other hand, the Id. DR did not oppose it if the delay is condoned and the issue is set aside on the merit of the case as per the provisions of law to the file of the AO.

5. We have heard the rival contentions of both the parties and perused the materials available on record. In view of the aforesaid discussion and considering the length of the delay in filing the appeal, we are inclined to condone the delay in the interest of justice and fair play. Accordingly, we condone the delay and proceed to adjudicate the matter on merits.

5.1 At the threshold, it was noticed that there was non-compliance by the assessee before the Id. CIT(A) even though various notices were issued by the Id. CIT(A) to the assessee to represent its case. However, on perusal of Form No.35 filed along with the new appeal, we note that the assessee clearly refused to receive any communication through email

but despite that the Id. CIT(A) communicated all the notices through email. As such, in the given facts and circumstances of the case, we are of the view that there was a valid reason for the assessee for non-compliance before the Id. CIT(A). Accordingly, we are of the view that the matter should be restored to the file of the Id. CIT (A) for fresh adjudication as per the provisions of law.

5.2 Before parting, it was further noticed that the assessee has also not made any compliance during the assessment proceedings. Thus, in such facts and circumstances, if we set aside the matter to the file of the Id. CIT (A), then a remand report is to be called upon by the Id. CIT (A) from the AO, which will certainly take longer time to dispense the justice to the assessee. Therefore, in such circumstances, we are of the view that it is a fit case, which needs to be set aside to the file of the AO for fresh adjudication as per the provisions of law. It is needless to mention that the assessee shall not seek unnecessary adjournment without just cause and it will co-operate during the assessment proceedings and will make necessary compliances as and when required by the AO. Thus, we set aside the issue to the file of the AO for fresh adjudication as per the provisions of law. Hence, ground of appeal of the assessee is hereby allowed for statistical purposes.

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

Order pronounced in court on 16th day of July, 2024

Sd/-

(GEORGE GEORGE K)

Vice President

Bangalore, Dated, 16th July, 2024

Sd/-

(WASEEM AHMED)

Accountant Member

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore