

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

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER**  
**&**

**SHRI RAHUL CHAUDHARY, HON'BLE JUDICIAL MEMBER**

**I.T.A. No. 2402/Mum/2024**

**Assessment Year: 2013-14**

<b>Mahesh Babulal Vaishya, Palghar</b> 101, Behind Police Station At and Post Satpati Palghar Thane Maharashtra - 401404 <b>[PAN: AIPPV9682C]</b>	Vs	<b>Income Tax Officer, Ward-1,</b> <b>Palghar</b>
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**अपीलार्थी/ (Appellant)**

**प्रत्यर्थी/ (Respondent)**

Assessee by : Shri Anil Sathe, A/R

Revenue by : Shri Kiran Unavekar, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 30/07/2024

घोषणा की तारीख /Date of Pronouncement: 30/07/2024

**आदेश/ORDER**

**PER NARENDRA KUMAR BILLAIYA, AM:**

This appeal by the assessee is preferred against the order dt. 06/03/2024 by NFAC, Delhi [‘Id. CIT(A)’], pertaining to Assessment Year 2013-14.

2. The sum and substance of the grievance of the assessee is that the Id. CIT(A) erred in dismissing the appeal *in limine*.

3. Briefly stated the facts of the case are that while deciding the appeal of the assessee, the Id. CIT(A) found that there is a delay of 238 days in filing the appeal. Since the appeal was filed after the expiry of limitation of time and since the Id. CIT(A) could not find any reason for the said delay in Form 35, the appeal was not admitted and dismissed.

4. We have given a careful consideration to the order of the Id. CIT(A). We are of the considered view that, the Id. CIT(A) ought to have given a reasonable and adequate opportunity to the assessee to justify and bring on record sufficient cause for the delay in filing the appeal. Therefore, in the interest of justice and fairplay, we deem it fit to restore this appeal to the file of the Id. CIT(A). The Id. CIT(A) is directed to allow the assessee to justify the delay in filing of the appeal and thereafter, if satisfied, decide the appeal afresh on merits.

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

**Order pronounced in the Court on 30<sup>th</sup> July, 2024 at Mumbai.**

*Sd/-*  
**(RAHUL CHAUDHARY)**  
**JUDICIAL MEMBER**

*Sd/-*  
**(NARENDRA KUMAR BILLAIYA)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated 30/07/2024

*\*SC Sp/2*

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