

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No.1902/M/2024
Assessment Year: 2018-19**

M/s. Swami Dharmadas Darbar Trust, OT Section, Ulhasnagar Maharashtra – 421 003 PAN: AACTS5334F	Vs.	Deputy Commissioner of Income Tax, Quershi Mansion, Gokhale Road, Maharashtra
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Hari Dudani, A.R.
Revenue by : Dr. Kishor Dhule, CIT D.R.

Date of Hearing : 16 . 07 . 2024
Date of Pronouncement : 22 . 07 . 2024

O R D E R

Per : Satbeer Singh Godara, Judicial Member:

This assessee's appeal for assessment year 2018-19 arises against the National Faceless Appeal Centre(NFAC) Delhi's DIN & order No.ITBA/NFAC/S/250/2023-24/1060956770(1) dated 15.02.2024, in proceedings under section 143(3) of the Income Tax Act, 1961 (in short 'the Act').

2. Heard both the parties at length. Case file perused.

3. The assessee pleads the following substantive grounds in the instant appeal:

“1. On the facts and Circumstances of Case in law, the Ld CIT(A) has erred by rejecting an appeal for delay in filing of appeal of and without verifying the Merits of the Case, which resulted into the demand of Rs 28,12,129/

Without Prejudice to the fact as mentioned above, the Ld CIT(A) has also ignored the fact that the Supreme Court took Suo Moto Cognizance of the difficulties that might be faced by the Litigants in filing petitions/applications/suits/appeals/all other Proceedings within the period of Limitation prescribed under the general law of limitation or under any special laws (both Central and/or State).

CIT has also ignored that CBDT Circular No .10/2021 dated 25th May 2021, the CBDT has clarified vide its Circular No.10/2021 dated 25.5.2021 that for the purpose of counting the period(s) of limitation for filing of appeals before Commissioner (Appeals) under the Act, the tax payer is entitled to relaxation which is more beneficial to him and hence the said limitation stand extended till further orders as ordered by the Hon'ble Supreme Court in Suo Motu Writ Petition (Civil) No. 3 of 2020 vide order dated 27 April, 2021.

PRAYER

1. *The appeal filed by the appellant be admitted and registered.*

2. *The impugned order passed by the Commissioner of Income Tax (Appeals) dated 15-02-2024 be set aside/reversed/modified as it is erroneous both in law and on facts.*

3. *The Appellant prays your honor to Grant appropriate relief as deemed fit by this Hon'ble Tribunal.*

4. *Any other relief, order, or direction that this Hon'ble Tribunal deems just and proper in the facts and circumstances of the case may also be granted.*

5. *The appellant craves leave to add, amend, alter or vary any ground of appeal on or before the hearing of the appeal.*

6. *The Appellant also prays your honor to Kindly stay the demand.*

7. *The appellant prays your honor to delete the additions made by the Assessing officer, which were made in violation of principal of natural justice.”*

4. It emerges at the outset that the learned CIT(A)/NFAC has refused to condone the 245 days' delay in filing of the assessee's appeal instituted on 27.01.2022 against the

assessment herein dated 27.05.2021. Learned departmental representative could hardly dispute that Hon'ble Apex Court's landmark directions In Re Cognizance for Extension of Limitation reported as (2022) 441 ITR 722 (SC) have already directed the exclusion of the time period between 16.03.2020 to 28.02.2022 for all intents and purposes for the purpose of computing limitation due to Covid-19 pandemic outbreak. We reiterate that both the assessment date as well as assessee's institution of the lower appeal indeed fall within the foregoing window only. Faced with this situation, we accept the assessee's arguments on this delay issue in the foregoing terms and restore the instant appeal back to the learned CIT/NFAC for its afresh appropriate adjudication as per law in tune with section 250(6) of the Act requiring it to frame points of determination followed by a detailed adjudication thereupon. Ordered accordingly.

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

Order pronounced in the open court on 22.07.2024.

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

* Kishore, Sr. P.S.

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.