

IN THE INCOME TAX APPELLATE TRIBUNAL, "F" BENCH  
MUMBAI  
BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

ITA No. 2860/MUM/2024  
(A.Y.2015-16)

Urja Education Society 1, Sai AnandI Apartment, Ramnath Nagar, Alibaug, Raigad-400055, Maharashtra.	Vs.	ITO, Exemption Ward, 208/209, 2 <sup>nd</sup> Floor, Quershi Mansion, Teen Haath Naka, Thane - 400602. Maharashtra.
PAN/GIR No. AAAAU2857J		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by	Shri Viraj Mehta.AR
Respondent by	Ms. Rajeshwari Menon, Sr. DR

सुनवाई की तारीख/Date of Hearing	16.07.2024
घोषणा की तारीख/Date of Pronouncement	22.07.2024

**ORDER**

**PER PAVAN KUMAR GADALE, JM:**

The appeal is filed by the assessee against the order of the National Faceless Appeal Centre (NFAC)Delhi / CIT(A) passed u/sec 143(3) and U/sec 250 of the Ac. The assessee has raised the following grounds of appeal:

*1 On facts and circumstances, Ld. CIT(A) has erred in passing the order without providing proper opportunity of hearing to the appellant. Said addition confirmed is bad in law and liable to be deleted as order is passed without opportunity of being heard and violating the principles of natural justice.*

*2 On facts and circumstances, Ld. CIT(A) has erred in passing the order without condoning the delay in filing appeal. Said addition confirmed is bad in law and liable to be deleted as order is passed without condoning the delay.*

*3 On facts and circumstances, Ld. CIT(A) has erred in passing the order by considering Rs. 72,81,320/- as income by erroneously treating accumulated development fund from previous year as income of the current year. Said addition confirmed is bad in law and liable to be deleted*

2. The brief facts of the case are that the is a AOP (trust). The assessee has filed the return of income for the A.Y 2015-16 on 08.09.2015. Subsequently the case was selected for scrutiny under the CASS and notice u/sec 143(2) and U/sec 142(1) of the Act along with questionnaire are issued. In compliance to the notice, the Ld. AR of the assessee appeared from time to time and submitted the details. Whereas the AO on perusal of the financial statements and submission of the information has assessed the total income of Rs.72,81,320/- and passed the order u/sec143(3) of the Act dated 27-12-2017.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and also there was delay in filling the appeal. Since there was partial compliance by the assessee and delay was not explained. Therefore the CIT(A) considering the information on record has not admitted the appeal on maintainability and

dismissed the assessee appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld. AR submitted that the CIT(A) has not considered the facts and submissions made in the assessment proceedings and whereas the assessee has obtained the copy of order u/sec143(3) of the Act and has filed the appeal before the appellate authority and the delay is not a wanton act. Further the Ld. AR emphasized that the assessee has good case on merits and prayed for an opportunity to substantiate the case with evidences and information before the authorities. Per Contra, the Ld. DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. Prima-facie, the CIT(A) has passed the order considering the fact that there is no proper compliance by the assessee in respect of delay in filing the appeal, in spite of providing adequate opportunities of hearing and the delay in filling the appeal was not explained with the reasonable cause. Whereas the assessee has raised grounds of appeal challenging the action of the A.O and there could be various reasons for non appearance which cannot be overruled. The Ld. AR emphasized that there are genuine reasons of the assessee for non appearance before the CIT(A) and the delay was not wanton Act. Accordingly, we considering the facts,

circumstances and submissions set aside the order of the CIT(A) and remit the entire disputed issues to the file of the CIT(A) to consider the application explaining the reasonable cause on the delay as discussed and to adjudicate afresh in accordance with the law. The assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of the appeal. And, we allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 22.07.2024.

Sd/-  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(PAVAN KUMAR GADALE)**  
**JUDICIAL MEMBER**

Mumbai, Dated: 22/07/2024

KRK

**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.

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