

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'H(SMC)'
BENCH MUMBAI**

**BEFORE: SHRI OM PRAKASH KANT, ACCOUNTANT
MEMBER**

&

SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

**ITA No. 2868/MUM/2024
(Assessment Year : 2018-19)**

Elite Residency Co-operative Housing Society Limited Elite Residency CHSL, 1/1887, Dr. Anandrao Nair Rd, Mumbai Central, Agripada, Mumbai-400011.	Vs.	CPC MUM-C-197(1) Mumbai-.
PAN/GIR No. AAAAE4374J		
(Appellant)	..	(Respondent)

Assessee by	Shri. Murtaza Quresh Ghadiali a/w Ms. Sabeena Damkhanawala
Revenue by	Shri. Asif Karmali, Sr. DR
Date of Hearing	01/08/2024
Date of Pronouncement	08/08/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 22.03.2024 passed in Appeal no. ADDL/JCIT (A) PATNA/10001/2017-18 by the Ld. Commissioner of

Income-tax(Appeals) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year [A.Y.] 2018-19, wherein learned CIT(A) has dismissed assessee's appeal upon rejection of assessee's application for condonation of delay in filing the same.

2. At the very outset, learned representative for the appellant assessee has, apart from the submissions related to the merits, submitted that the assessee received intimation order dated 13.05.2019 passed u/s. 143(1) of the Act on 13.05.2019 for the A.Y. 2018-19. The assessee raised his grievance against the said order on the Income Tax portal on 11.06.2019, in respect of assessee's claim of deduction u/s. 80P(2)(d) of the Act. Thereafter on 06.07.2019, 11.02.2020, 28.07.2021, 27.12.2022. The assessee continued raising its grievances. Assessee received response on 01.08.2023 that its grievances being beyond the scope of rectification u/s. 154 of the Act was rejected. The appeal before learned CIT(A) could not be filed within the statutory period. The delay was caused by due to

assessee's bonafide belief that grievances raised electronically shall be resolved. Prayed to set aside impugned order and provide opportunity of hearing.

3. Learned DR has supported the impugned order.
4. We have heard learned representatives for both the parties and perused the material available on record.
5. It transpires from the perusal of records that the assessee filed first appeal before learned CIT(A) on 07.12.2023 against the rectification order dated 13.05.2019 passed u/s. 143(1) of the Act. The first appeal was dismissed by the first appellate authority solely upon rejection of assessee's prayer on condonation of delay 1638 days in filing the first appeal before learned CIT(A).
6. We notice that the statutory period for filing an appeal before learned CIT(A) u/s. 249(2) of the Act is 30 days. However, section 249(3) of the Act empowers the first appellate authority to condone the delay if satisfied that appellant had sufficient cause for not presenting it within that period. Learned CIT(A) was, however not satisfied to condone the said delay of 1638 days.

7. We find that the assessee, submitted its response against the said outstanding demand on the income tax portal on 11.06.2019 & continued pursuing the same till it received the rejection of his prayer for rectification on 01.08.2023. It appears that the assessee was under a bonafide belief that his grievances raised through the income tax portal shall be resolved in due course of time. This expectation of assessee caused such a huge delay in filing first appeal.
8. It is well established principle of law that the substantial justice cannot be denied on technical aberrations. The object of prescribing procedure is to advance the cause of justice. In an adversial justice system like ours, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Justice is the goal of jurisprudence. Any interpretation which eludes or frustrates the recipient of justice, is not to be followed. The provisions relating to the condonation of delay, need to be interpreted liberally.
9. The object of prescribing the time period for filing of the appeal, is to expedite the proceedings before the concerned authorities and to advance the cause of justice. In view of

the explanation stated hereinabove, we, deem it just and proper to condone the said delay in filing the first appeal before the first appellate authority.

10. In the result, the appeal is allowed. The impugned order dated 22.03.2024 is set aside. The delay in filing the first appeal before first appellant authority i.e learned CIT(A) stands condoned. We restore the matter back to the file of learned CIT(A) for passing order afresh on merit in accordance with law. Needless to say that the first appellant authority shall ensure the substantial compliance of the principles of natural justice.

Order pronounced in open court today on 08.08.2024

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Mumbai; Dated 08/08/2024
Anandi Nambi, *Steno*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai