

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC-'A' BENCH : BANGALORE**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No. 997/Bang/2024
Assessment Year : 2022-23

Seetharamaiah Venkata Vemula, D 702, Greenwich Block Concorde Manhattan Apartment, Electronic City Phase 1, Bangalore – 560 100. PAN: ABIPS5011Q	Vs.	The Deputy Commissioner of Income Tax, Circle – 4(1)(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri S. Annamalai, Advocate
Revenue by	:	Shri Ganesh R Ghale, Standing Counsel for Dept.

Date of Hearing	:	30-07-2024
Date of Pronouncement	:	07-08-2024

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal arises out of order dated 24.04.2024 passed by CIT(A)/JCIT-3, Delhi / NFAC for A.Y. 2022-23.

2. Brief facts of the case are as under:

2.1 Assessee is an individual and had income under the head income from house property, income from business being loss from sale and shares and income from capital gain from sale of shares and income from other sources. The assessee filed its return of income on 01.08.2022 that was processed by CPC vide order dated 04.01.2023 u/s. 143(1)(a). It is submitted by the Ld.AR that the assessee filed the return on 31.07.2022 however, by the time the acknowledgment was generated, there was a delay of 24 seconds thereby the date of filing of the return was shown to be 01.08.2022. The Ld.AR thus submitted that, the CPC in the routine manner disallowed the carried forward of loss mechanically, since the return was uploaded as the acknowledgment being generated on 01.08.2022. He thus prayed that actually there is no delay in e-filing of the return of income. However, the delay was by 24 seconds in generation of the acknowledgment that led to the disallowance by considering the Return to be filed belatedly. He prayed that there is no delay and the return of income may be considered in accordance with law.

3. On the contrary, the Ld.DR though relied on the orders passed by authorities below, could not controvert the submissions of the assessee.

We have perused the submissions advanced by both sides in the light of records placed before us.

4. It appears from the record that e-filing of return was accepted, however the delay was caused in generation of the acknowledgment thereby shifting of the date of filing of return to 01.08.2022. The Ld.DR relied on the provisions of section 119 in order to condone any delay by way of application to be made on behalf of assessee. It is observed that the provisions of section 119 allows the CBDT to consider a situation wherein the return of income has been filed beyond the time prescribed u/s. 139 and section 239 of the act. Taking note of this, we observe that, the delay in the present case of 24 seconds as alleged by the assessee.

Be that as it may, even assuming there is a delay of 1 day, non-consideration of the circumstances that caused the delay in generation of the acknowledgement is a pedantic approach which cannot be appreciated. In case such an approach is allowed, would result in hardship to the assessee for no fault of the assessee.

4.1 In the interest of justice, we condone the delay caused in the generation of the acknowledgment or filing of the return as the case may be. Needless to say that as nothing has been examined on merits of the claim by the revenue authorities, we remit this issue to the Ld.AO for necessary verification and to consider the claim in accordance with law. The assessee is also directed to furnish all relevant evidences / documents in support of its claim which shall be verified by the Ld.AO.

Accordingly, the grounds raised by the assessee stands partly allowed for statistical purposes.

In the result, the appeal filed by the assessee stands partly allowed for statistical purposes.

Order pronounced in the open court on 07th August, 2024.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 07th August, 2024.
/MS /

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore