

**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH : BANGALORE**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA Nos. 1065 & 1364/Bang/2024
Assessment Years : 2018-19 & 2019-2020

Shri Lakkondahalli Narayanappa Narayanaswamy, Gangamma Temple Road, Behind Forest Office, Hoskote Taluk, Karnataka – 562 114. PAN: AFIPN3236J	Vs.	The Deputy Commissioner of Income Tax, Central Circle – (1)(2), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Subramanya Bhat, CA
Revenue by	:	Ms. Neera Malhotra, CIT-DR

Date of Hearing	:	26-07-2024
Date of Pronouncement	:	12-08-2024

ORDER

PER BENCH

Present appeals has been filed by assessee against a consolidated order dated 28.03.2024 passed by Ld.CIT(A)-11, Bangalore for A.Ys. 2018-19 and 2019-20.

2. At the outset, it is noted that assessee filed only one Form 36 before this *Tribunal* commonly for both the assessment years under consideration against the impugned order. Subsequently, it was brought to the notice of the assessee regarding the defect to be rectified and the assessee filed another appeal for A.Y. 2019-20 thereby causing a delay of 57 days. It is noted that it was a bonafide mistake on behalf of assessee in filing consolidated appeal for both the years under consideration. As the assessee had filed ITA No. 1065/Bang/2024 for A.Y. 2018-19 within the period of limitation, upon removing the defect by filing separate appeal for A.Y. 2019-20, the 2nd appeal is considered to have been filed within the period of limitation.

Accordingly, the delay if any in filing appeal for A.Y. 2019-20 is unintentional and is condoned.

3. We note that the impugned order passed by the Ld.CIT(A) was on 28.03.2024. It is further noted that assessee filed appeals before the Ld.CIT(A) against the assessment orders dated 26.04.2021 for both the years under consideration on 12.09.2022. The Ld.CIT(A) was of the view that, as there was delay of 474 days dismissed the appeals by observing that there

was no sufficient cause for the unreasonable delay in filing the appeals.

3.1 We note that the limitation period for filing the appeals before the Ld.CIT(A) expired during the covid period and pursuant to the order of *Hon'ble Supreme Court* dated 23.03.2021 and further by an order dated 10.02.2022, the limitation was extended upto 30.05.2022. Thus in our view, the delay in filing the present appeals has to be considered from 01.06.2022 to 12.09.2022 being the date of filing of appeals before Ld.CIT(A). It is surprising to note that the Ld.CIT(A) considered the decisions of *Hon'ble Supreme Court* and excluded the period upto 30.05.2022 by noting that the delay in filing the appeal was only 105 days. However, it also noted that, the assessee was not granted opportunity to explain the delay caused in filing the appeals before the Ld.CIT(A) thereby violating the principles of natural justice. The Ld.CIT(A) observed that, the delay of 105 days delay to be an extraordinary delay without considering the reasons that assessee had to offer. We also note that no notice of hearing was issued by the Ld.CIT(A) as per the notings in the impugned order placed before us.

3.2 In the interest of justice, we remit these appeals back to the Ld.CIT(A) with the direction to consider the affidavit filed by the assessee explaining the delay of 105 days and to decide the issue

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on merits in accordance with law. Needless to say that proper opportunity of being heard must be granted to assessee.

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

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

Order pronounced in the open court on 12th August, 2024.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 12th 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