

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI SOUNDARARAJAN K, JUDICIAL MEMBER**

ITA No. 1287/Bang/2024
Assessment Years : 2017-18

Munivenkappa Maddurappa, No.95, 1 st Floor, 2 nd Main, BHCS Layout, Uttarahalli, Bengaluru - 560 061. PAN – AEQPM 0093 K	Vs.	The Income Tax Officer, Circle – 3(2)(1), Bengaluru. .
APPELLANT		RESPONDENT

Assessee by	:	Shri Guruswamy, ITP
Revenue by	:	Shri Ganesh R Gale, Standing Counsel

Date of hearing	:	08.08.2024
Date of Pronouncement	:	16.08.2024

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order passed by the NFAC, Delhi dated 18/08/2023 in DIN No. ITBA/NFAC/S/250/2023-24/1055237972(1) for the assessment year 2017-18.

2. At the outset, the Id. Counsel for the assessee before us submitted that there was a delay in filing the appeal by the assessee before the ITAT for 261 days. To this effect, the assessee has filed condonation petition supported by the Affidavit pointing out that the assessee left Bangalore in the year 2019 after retiring from the job. Therefore, he was not aware of the order passed by the Id. CIT(A). As

such, the assessee came to know about the order passed by the Id. CIT(A) from the portal of the Income-tax Department and thereafter the appeal was filed dated 05/07/2024. As such, the delay has occurred in filing the appeal of 261 days before the ITAT on account of shifting from Bangalore. As such, the Id. AR prayed to condone the delay in filing the appeal before the ITAT.

3. The Id. AR also submitted that as the assessee has shifted his place from Bangalore, he could not appear either before the Id. CIT(A) or before the AO. As such, the Id. AR prayed to set aside the issue to the file of the AO for fresh adjudication on merit as per the provisions of law.

4. It was also submitted by the Id. AR that the assessee was into the job for 33 years and the cash deposited was out of the past savings. As per the Id. AR, the assessee has strong case in his favour and, therefore, the same should not be dismissed on account of technical lapses.

5. On the other hand, the Id. DR submitted that the assessee has been negligent and, therefore, the appeal of the assessee should not be admitted.

6. In the rejoinder, the Id. AR fairly admitted that the assessee has been negligent but if the entire cash deposit is added to the total income of the assessee, it will create undue hardship. The cash was deposited out of the explained sources. As such, the Id. AR before us prayed that a nominal cost of Rs. 2000/- can be imposed on the assessee for negligent approach in pursuing the Income-tax matters.

7. We have heard the rival contentions of both the parties and perused the materials available on record. From the preceding discussion, we note that the assessee neither appeared during the

assessment proceedings nor during the appellate proceedings. Furthermore, the appeal before ITAT was not filed within the time, thus it appears to us that the assessee has been negligent in pursuing his Income-tax matters. Be that as it may be, the income has to be assessed as per the provisions of law. As such, we are of the view that non-appearance of the assessee should not cause undue hardship. The mistake committed by the assessee should be commensurate to the hardship in consequence to the non-cooperation by the assessee. As such, confirming the addition without hearing the assessee would cause hardship to the assessee. Accordingly, in the interest of justice and fair play, we are inclined to condone the delay after imposing cost of Rs. 2000/- upon the assessee, which shall be deposited in the Income-tax Department on account of negligent approach of the assessee. As the assessee neither appeared during the assessment nor CIT(A) proceedings, we set aside the issue to the file of the AO for fresh adjudication as per the provisions of law. Hence, the ground of appeal filed by the assessee is hereby allowed for statistical purposes.

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

Order pronounced in court on 16th day of August, 2024

Sd/-

(SOUNDARARAJAN K)

Judicial Member

Sd/-

(WASEEM AHMED)

Accountant Member

Bangalore
Dated, 16th August, 2024

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore