

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

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.1164/Bang/2024
Assessment Years : 2010-11

Malatesh Begoor Nadig, No.467, 16 th Cross, BEML Layout, I Stage, Basaveshwaranagar, Bengaluru – 560 079. PAN – ACAPM 2782 M	Vs.	The Income Tax Officer, Ward – 6(2)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri Kashinath Kalmath, Advocate
Revenue by	:	Shri Subramanian S, JCIT

Date of hearing	:	13.08.2024
Date of Pronouncement	:	21.08.2024

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER :

This is an appeal filed by the assessee against the order passed by the NFAC, Delhi dated 31/05/2024 vide DIN No.ITBA/NFAC/S/250/2024-25/1065299599(1) for the assessment year 2010-11.

2. At the outset, we note that there was a delay of 69 days by the assessee in filing the appeal before the Id. CIT-A. The delay in filing the appeal by the assessee was not explained during the proceedings before the Id. CIT-A. Therefore, the Id. CIT-A in his order dated 31-05-2024

concluded that the appeal filed by the assessee is not maintainable. However, on perusal of the orders of authorities below, we note that the assessment was framed vide order dated 13 August 2021 and the appeal was instituted dated 20 November 2021 with the delay of 69 days. In this regard, it is important to note that there was an outbreak of covid pandemic during the period when the appeal was to be filed before the Id. CIT-A. The Hon'ble Supreme Court in Cognizance for Extension of Limitation, In re reported in 134 Taxmann.com 307 has excluded the covid period for calculating the time limit for filing the appeal from 15-3-2020 to 28-02-2022. Thus, we hold that the delay in filing the appeal by the assessee is to be excluded while calculating the deadline for filing the appeal. Hence, we are of the view that there was sufficient and reasonable cause which prevented the assessee from filing the appeal within the statutory time limit. Accordingly, the delay in the case in hand deserves to be condoned. Consequently, we are setting aside the issue to the file of the learned CIT-A for fresh adjudication as per the provisions of law after condoning the delay in filing the appeal by the assessee. Hence, the ground of appeal of the assessee is hereby allowed for statistical purposes.

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

Order pronounced in court virtually on 21st day of August, 2024

Sd/-

(PRAKASH CHAND YADAV)

Judicial Member

Bangalore

Dated, 21st August, 2024

/ vms /

Sd/-

(WASEEM AHMED)

Accountant Member

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