

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

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

ITA No.1150/Bang/2024
Assessment Years : 2019-20

Shri Chowlor Matada Swamy, Terumalleshwara Krupa Sante Pete, Near KSTC Bus Stop, Hiriyur – 577 598. PAN – DKWPS 1227 Q	Vs.	The Dy. Commissioner of Income Tax, Circle – 1(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Lakshmi S, Advocate
Revenue by	:	Shri Subramanian S, JCIT (DR)

Date of hearing	:	13.08.2024
Date of Pronouncement	:	26 .08.2024

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER :

This is an appeal filed by the assessee against the order passed by the CIT(A)-11, dated 30/05/2024 vide DIN No.ITBA/APL/M/250/2024-25/1065257486(1) for the assessment year 2019-20.

2. At the outset, we note that there was a delay of 140 days in filing the appeal by the assessee before the learned CIT-A. It was explained by the assessee before the learned CIT-A that the assessee was under

the impression that the appeal before the learned CIT-A can only be filed if the assessee deposits 20% of the tax demand in the income tax department. According to the assessee, there was no cash available with him as cash of ₹ 24.50 lakhs was seized during the search at the premise of the assessee. However, when the assessee received penalty notice, the assessee consulted some other tax advocate/ advisor who guided the assessee that it is not a precondition to deposit 20% of the tax demand for filing the appeal before the learned CIT-A. However, in this process the delay has occurred which was not condoned by the learned CIT-A.

3. However, on appeal before us, we note that the reason given by the assessee for the delay in filing the appeal cannot be treated as unreliable/ unrealistic or bogus simply for the reason that there was handsome cash found from his premises which was seized during the search proceedings. Thus, there is a possibility of shortage of cash with the assessee. Accordingly, the assessee on the wrong advice of the tax consultant could not filed the appeal within the stipulated time before the learned CIT-A. Thus, considering all the facts, we're of the view that there was sufficient cause which prevented the assessee from filing the appeal within the time permitted under the provisions of law. Accordingly, in the interest of justice and fair play, we direct the Id. CIT-A to condone the delay in filing the appeal before him by the assessee and proceed to adjudicate the issue on merit of the case of the assessee. Hence, the ground of appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in court virtually on 26th day of August, 2024

Sd/-

(PRAKASH CHAND YADAV)
Judicial Member

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 26th 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