

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH
MUMBAI**

**BEFORE: SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT
MEMBER**

&

SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

**ITA No. 2927/MUM/2024
(Assessment Year : 2016-17)**

Shaskiya Mudranalay Ani Sanchalanalay Karmachari Sah Patsanstha Maryadit Govt Central Press, Netaji Subhash Chandra Road, Charni Road, Girgaon-400004.	Vs.	Centralized Processing Center, ITO, Wd-19(3)(1), Matru Mandir, Tardeo Road, 400007.
PAN/GIR No. AAAAG1547M		
(Appellant)	..	(Respondent)

Assessee by	Shri. Prakash Jhunjhunwala
Revenue by	Shri. R. R. Makwana, Sr. DR
Date of Hearing	28/08/2024
Date of Pronouncement	28/08/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 01.04.2024 passed in Appeal no. ADDL/JCIT (A)-2 SURAT/10002/2015-16 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-

tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year [A.Y.] 2016-17, wherein learned CIT(A) has dismissed assessee's appeal upon rejection of assessee's application for condonation of delay in filing the same.

2. At the very outset, learned representative for the appellant assessee has submitted that the intimation order passed u/s. 143(1) of the Act was received by the appellant on 18.12.2022. Thereafter a grievance was raised on 12.01.2023, which was resolved on 14.12.2023 thereafter the first appeal was filed on 27.12.2023 against the order dated 05.12.2016, which in fact was communicated on 18.12.2022. It is further submitted that timely appeal could not be filed with a bonafide belief that assessee's grievance may be resolved and deduction of 80P may be granted. Learned CIT(A) issued notice of hearing on 15.03.2024 (Friday) for hearing on 18.03.2024 (Monday). Appellant assessee was not granted reasonable time to make his submissions before passing impugned order. Prayed to condone the delay in filing first appeal and direct learned CIT(A) to decide the matter afresh on merit.
3. Learned DR has vehemently opposed the assessee's delay condonation prayer and supported the impugned order.
4. We have heard learned representatives of the parties and perused the material available on record.
5. It appears that learned CIT(A) has dismissed assessee's first appeal solely upon rejection of assessee's prayer for the condonation of delay of about 2547 days in filing the same. The limitation period for filing an appeal before learned CIT(A)

u/s. 249(2) of the Act is 30 days. However, section 249(3) of the Act empowers the first appellate authority to condone the delay if satisfied that appellant had sufficient cause for not presenting it within that period. Learned CIT(A) was, however not satisfied to condone the said delay of 2547 days in filing the appeal.

6. It is well established principle of law that the substantial justice cannot be denied on technical aberrations. The impugned order seems to have been passed merely on the ground that the assessee failed to show sufficient cause. Hon'ble Supreme Court in Sambhaji and Ors V Gangabai and Ors, Civil Appeal no. 6731/2008 (arising out of SLP(C) No. 14562 of 2006) vide judgment dated 20.11.2008, has held that the object of prescribing procedure is to advance the cause of justice. In an adversial justice system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Unless compelled by express and specific language of the statute, the procedural enactment ought not to be construed in a manner which would leave the court helpless to meet extra ordinary situations in the ends of justice. Justice is the goal of jurisprudence. Procedural law is always subservient to and is in aid to justice. Any interpretation which eludes or frustrates the recipient of justice is not to be followed. Processual law is not to be tyrant but a servant, not an obstruction but an aid to justice. A procedural prescription is the handmaid and not the mistress, lubricant, not a resistance in the administration of justice.

7. The object of prescribing period of limitation in filing of the appeal is to expedite the proceedings and to advance the cause of justice. In view of the submissions of assessee that he was not in receipt of order u/s. 143(1) till 18.12.2022 and he further pursued the grievances with bonafide intention that it will be resolved in his favour, we deem it just, proper and in the interest of justice to condone the said delay of 2547 days in filing the first appeal before the first appellate authority. The same stands condoned.
8. In the result, the appeal is allowed. The impugned order dated 01.04.2024 is set aside. The delay in filing the first appeal before the first appellant authority i.e before learned CIT(A) stands condoned. We restore the matter back to the file of learned CIT(A) for passing order afresh on merit in accordance with law. Needless to say that the first appellate authority shall ensure the substantial compliance of the principles of natural justice.

Order pronounced on 28.08.2024.

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Mumbai; Dated 28/08/2024
Anandi Nambi, *Steno*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai