

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

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

&

SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER

**ITA No. 3206/MUM/2024
(Assessment Year : 2013-14)**

V Kumar And Sons 13-C-C, Estee Apt., Saibaba Nagar, Borivali West, Mumbai-400092.	Vs.	The Income Tax Officer Ward 42(1)(5), Kautilya Bhavan, Bandra Kurla Complex, Income Tax Department, Mumbai-400051
PAN/GIR No. AAEFV7954L		
(Appellant)	..	(Respondent)

Assessee by	Shri. Nirav Shah
Revenue by	Shri. R.R. Makwana, Sr. DR
Date of Hearing	29/08/2024
Date of Pronouncement	29/08/2024

आदेश / O R D E R

PER SUNIL KUMAR SINGH (J.M):

1. This appeal has been preferred against the impugned order dated 06.03.2024 passed in Appeal no. ADDL/JCIT (A)-2 SURAT/10003/2012-13 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.] 2013-14, wherein learned CIT(A) has dismissed assessee's appeal upon rejection of assessee's application for condonation of delay in filing the first appeal.

2. At the very outset, learned representative for the appellant assessee has, apart from the merits of the case, submitted that the intimation u/s. 143(1) of the Act dated 15.04.2014 came to the knowledge of the appellant when the demand of Rs. 5,66,220/- was raised. Appellant immediately filed rectification application on 17.08.2023 and the same was not acted upon. The appellant was of the view that this mistake apparent on record may be rectified by assessing officer but for no avail. It is further submitted that the delay caused in filing first appeal was inadvertent and unintentional. 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 3560 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 did not find any sufficient cause to condone the said delay of 3560 days in filing the first appeal.
6. It is well established principle of law that the substantial justice cannot be denied on technicalities. 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. We, in the interest of justice, deem it just and proper to condone the said delay of 3560 days in filing the first appeal before the first appellate authority. The delay is accordingly condoned.
8. In the result, the appeal is allowed. The impugned order dated 06.03.2024 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 29.08.2024.

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai; Dated 29/08/2024
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//

Sd/
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai