

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.99/Ind/2024
Assessment Year : 2018-19

Nirvindhya Shiksha Avam Sanskriti Prachar Samiti, C/o Adv. Hitesh Chimnani, UG-37, Trade Centre, 18, South Tukoganj, Indore.	<u>बनाम/</u> Vs.	Income-tax Officer, Rajgarh Biaora,
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AAAAN8371J		
Assessee by	Shri Hitesh Chimnani, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	05.09.2024	
Date of Pronouncement	09.09.2024	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 04.12.2023 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 16.07.2021 passed by learned NFAC, Delhi ["AO"] u/s 143(3) r.w.s. 144B of Income-tax Act, 1961 ["the

Act"] for Assessment-Year ["AY"] 2018-19, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. The registry has informed that present appeal has been filed on 05.02.2024 against impugned order dated 04.12.2023 and hence there is a small delay of 3 days. Ld. AR for assessee submitted that "03.02.2024-04.02.2024" were non-working days being "Saturday-Sunday" and therefore the appeal could be filed only on next working day i.e. Monday, 05.02.2024. Hence, the present appeal having been filed on 05.02.2024 is well within time and there is no delay. Ld. DR for revenue fairly agreed. Thus, the issue of delayed filing is resolved and it is found that there is no delay. We therefore proceed for hearing.

3. Ld. AR next drew us to the impugned order of first-appeal passed by CIT(A) and pointed that the CIT(A) has dismissed assessee's first-appeal *in limine* on the ground of belated filing without adjudicating on merit. He submitted that the CIT(A) has rightly observed that the first-appeal was required to be filed by 16.08.2021 but the same was filed on 13.10.2021 after a delay of 58 days. But the CIT(A) has not considered the explanation submitted by assessee *qua* the reason of delay. He submitted that it was explained to CIT(A) that (i) there were glitches at the relevant time in new income-tax portal launched by Income-tax Department because of which the assessee was unable to file appeal in time, and (ii) the CBDT has also extended dates for filing of appeals through various notifications. But the CIT(A) rejected assessee's submission by mentioning that the assessee had

not filed any suitable evidence in support of technical glitches in portal of Income-tax Department. Ld. AR submitted that the assessee made a factual and genuine submission to CIT(A) which ought to have been given accepted by CIT(A). Accordingly, Ld. AR prayed to hold the filing of first-appeal in time. Simultaneously, Ld. AR made a further prayer that the present matter should be re-stored to CIT(A) for adjudication on merit.

4. Ld. DR for revenue fairly agreed to the submission and prayers of Ld. AR.

5. After a careful consideration, we find that besides the claim of assessee of technical glitches in Income-tax portal at the relevant time, there was also Covid-19 Pandemic and in **Suo Motu Writ Petition (C) No. 3 of 2020 read with Misc. Applications**, the Hon'ble Supreme Court granted suo motu extension of the limitation-period for filing of appeals w.e.f. 15.03.2020 under all laws upto 29th May, 2022. Therefore, the first-appeal was filed by assessee within the time granted by Hon'ble Supreme Court. Therefore, taking a judicious note of the claim of assessee before CIT(A) and also the extension granted by Hon'ble Supreme Court, the first-appeal before CIT(A) is held to have been filed by assessee in time without any delay. We further accede to the prayer of Ld. AR to restore this matter to the file of CIT(A) for adjudication afresh on merit. Accordingly, we remand this matter to CIT(A) for a fresh adjudication on merits of the grounds raised by assessee before him.

6. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in open court on 09.09.2024.

Sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 09.09.2024
CPU/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore